



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED WITH PREJUDICE: February 1, 2008

CBCA 128-FCIC

In the Matter of
RAIN AND HAIL L.L.C.
(In re: WESTLAKE FARMS)

Bruce B. Green and Frank W. Pechacek, Jr. of Willson & Pechacek, P.L.C., Council Bluffs, IA; and Jan L. Kahn of Kahn, Soares, and Conway, Hanford, CA, counsel for Appellant.

Maria Giatrakis, Office of the General Counsel, Department of Agriculture, San Francisco, CA, counsel for Federal Crop Insurance Corporation.

VERGILIO, Board Judge.

ORDER

On November 1, 2005, Rain and Hail L.L.C. (also identifying ACE Property and Casualty Insurance Company f/k/a Cigna Property and Casualty Insurance Company as an appellant; here the companies are referred to collectively as the insurance company) submitted a notice of appeal involving a final determination by the Deputy Administrator for Compliance at the Department of Agriculture, Risk Management Agency (RMA). The action arises under a Standard Reinsurance Agreement (SRA) between ACE and the Federal Crop Insurance Corporation (FCIC). The insurance company provided multiple peril crop insurance coverage; the Government provides reinsurance to the insurance company pursuant to the SRA.

In compliance case WRCO-3656, the RMA determined that for crop year 2001 the insurance company permitted the insured to purchase buy-up augmentation on the prevented planting coverage on an irrigated cotton crop at a time that a drought continued and it was known that reduced water supplies would be available. The RMA concluded that sale of additional coverage constituted an improper practice that resulted in a premium

overstatement of \$8090 and indemnity overpayment of \$177,680 by the insurance company. The insurance company disputes the determination and associated financial demands.

This dispute, timely filed before the Department of Agriculture Board of Contract Appeals, now is properly before this Board. 72 Fed. Reg. 31,437-38 (June 7, 2007). After the submission of the appeal file, complaint, and answer, the parties engaged in discovery and settlement discussions. The parties opted to utilize mediation, conducted on October 1, 2007, with the presiding judge, during which they resolved the dispute. On January 31, 2008, the Board received a stipulation for settlement, signed by each party, and a request for a dismissal with prejudice, each party to bear its own costs and attorney fees.

In light of the stipulation, this case is **DISMISSED WITH PREJUDICE**.

JOSEPH A. VERGILIO
Board Judge