

RAIN AND HAIL INSURANCE SERVICE, INC.)	AGBCA No. 98-168-F
and RAIN AND HAIL L.L.C.,)	
(Compliance Case: Sherman's Defeat))	
)	
Appellants)	
)	
Representing the Appellants:)	
)	
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)	
Representing the Government:)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

August 25, 1999

OPINION BY ADMINISTRATIVE JUDGE JOSEPH A. VERGILIO

On May 8, 1998, the Board received this appeal from Rain and Hail Insurance Service, Inc. (RHIS) and Rain and Hail L.L.C. (R&H) (Appellants¹), of West Des Moines, Iowa, involving the U. S. Department of Agriculture, Federal Crop Insurance Corporation (FCIC). Relying upon a Standard Reinsurance Agreement (SRA), RHIS provided insurance to a producer, Sherman's Defeat, for the 1994 crop year. The SRA represents a cooperative financial assistance agreement to deliver multiple

¹ RHIS asserts that pursuant to a plan of reorganization approved and adopted by RHIS shareholders, R&H replaced RHIS as the operational entity responsible for the underlying contract, effective May 1, 1996 (Complaint at 2 (¶ 5)). Hence, the dual appellants, to which the Government has not objected.

peril crop insurance under the authority of the Federal Crop Insurance Act, as amended, 7 U.S.C. §§ 1501 *et seq.*

Under Compliance Case No. RA-RHOO-282, regarding the insurance of Sherman's Defeat, the Government determined that RHIS is liable to the Government for \$32,902, i.e., \$6,243 for a premium overstatement and \$26,659 for an indemnity overpayment. The dispute focuses upon the applicable actual production history (APH) of the insured. The Government maintains that insufficient records support the reported production utilized by RHIS. RHIS asserts that it used the correct, properly supported, figures. RHIS asks the Board to conclude that the Government is not entitled to the reimbursement sought.

Regulation provides the Board with the authority to resolve this timely-filed matter (7 C.F.R. §§ 24.4(b), 400.169(a)-(d)). Following the completion of discovery and the closing of the evidentiary record, yet prior to the submission of briefs, the parties entered into a settlement agreement resolving this appeal. The settlement indicates that the parties arrived at revised compliance findings regarding the proper premium and indemnity. The settlement provides that each party bears its own costs of litigation and that neither party may seek interest on the amount reimbursed by RHIS. In light of the settlement, by a submission received August 18, 1999, the Appellants request that the matter be dismissed.

DECISION

In light of the request by the Appellants, the Board dismisses with prejudice this matter.

JOSEPH A. VERGILIO
Administrative Judge

Concurring:

EDWARD HOURY
Administrative Judge

HOWARD A. POLLACK
Administrative Judge

Issued at Washington, D.C.
August 25, 1999