

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

FCIA Docket No. 08-0180

In re: DANIEL SMITH, d/b/a BLUE RIDGE FARMS,

Respondent

**DEFAULT DECISION AND ORDER**

This proceeding was instituted under the Federal Crop Insurance Act (7 U.S.C. §§ 1515(h)(Act)), by a complaint filed by the Manager of the Federal Crop Insurance Corporation (FCIC) on September 4, 2008 seeking the disqualification of the Respondent from receiving any benefit under the statutes specified in section 515(h)(3)(B) of the Act.

The complaint alleged that the Respondent willfully and intentionally provided false or inaccurate information to an approved insurance provider and FCIC concerning the planting date of his 2005 potato crop and that the Respondent knew or should have known that the information he provided was false.

On September 5, 2008, the Hearing Clerk's Office mailed a copy of the complaint to respondent by certified mail and the same was received by the Respondent on September 8, 2008. 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.

Respondent's answer was due no later than twenty days after service of the complaint (7 C.F.R. §

1.136(a)). The Respondent failed to file an answer within the time prescribed in 7 C.F.R. § 1.136(a). 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) shall be deemed an admission of the allegations in the complaint. Further, the failure to file an answer constitutes a waiver of hearing. (7 C.F.R. § 1.139). 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. Daniel Smith is an individual who resides in Burbank, Washington and does business as Blue Ridge Farms.
2. The Respondent was a participant in the Federal Crop Insurance program under the Act and the regulations for the 2005 crop year.
3. On June 29, 2005, Respondent signed a Multiple Peril Crop Insurance Application and Reporting Form, certifying that the Respondent had planted 62 acres of potatoes on May 28, 2005 on land description 26 2S-39E and further certified that the information and answers on the application were true and correct, that none of the reasons for rejection were applicable. He also reported that Rattray Custom Farming had a 50% interest in the crop.
4. On June 29, 2005, Respondent signed a second Multiple Peril Crop Insurance Application and Reporting Form, certifying that he had planted additional acres of potatoes on tracts more specifically described on the Reporting Form on various dates between May 30, 2005 and June 2, 2005 and again certified that the information and answers on the application were true and correct and that none of the

reasons for rejection were applicable. He also reported that Rattray Custom Farming had a 50% interest in the crop.

5. The final date for planting potatoes in Union County, Oregon where the crop was located was May 31, 2005.

6. Based upon the information contained on the application and reporting form, Rain and Hail, LLC, the managing general agent for Ace Property and Casualty Company, an approved insurance provider described in sections 515(h) and 502(b)(2) of the Act provided crop insurance coverage for the Respondent's potato crop under policy number 615066 which was reinsured by FCIC in accordance with the Act.

7. The Respondent submitted a potato loss claim which was denied and the policy voided for misrepresentation or fraud by the approved insurance provider because evidence from multiple sources indicated that the planting had occurred at a much later date than reported and it appeared that the planting date was intentionally misreported.

### **Conclusions of Law**

1. The Secretary has jurisdiction in this matter.
2. The Respondent willfully and intentionally provided false or inaccurate information to the Federal Crop Insurance Corporation or to the insurer with respect to an insurance plan or policy under the Federal Crop Insurance Act (Act) (7 U.S.C. § 1515(h)).

### **Order**

1. Pursuant to section 515(h)(3)(B) of the Act (7 U.S.C. § 1515(h)(3)(B)) and FCIC's regulations (7 C.F.R. part 400, subpart R), Respondent is disqualified from receiving any monetary or nonmonetary

benefit provided under each of the following for a period of two years:

- (1) Subtitle A of the Federal Crop Insurance Act (7 U.S.C. §§ 1501-1524);
- (2) The Agricultural Market Transition Act (7 U.S.C. §§ 7201 et seq.), including the non-insured crop disaster assistance program under section 196 of the Act (7 U.S.C. § 7333);
- (3) The Agricultural Act of 1949 (7 U.S.C. §§ 1421 et seq.);
- (4) The Commodity Credit Corporation Charter Act (15 U.S.C. §§714 et seq.);
- (5) The Agricultural Adjustment Act of 1938 (7 U.S.C §§ 1281 et seq.);
- (6) Title XII of the Food Security Act of 1985 (16 U.S.C. §§ 3801 et seq.);
- (7) The Consolidated Farm and Rural Development Act (7 U.S.C. §§ 1921 et seq.); and
- (8) Any law that provides assistance to a producer of an agricultural commodity affected by a crop loss or a decline in the prices of agricultural commodities.

2. Unless this decision is appealed as set out below, the period of ineligibility for all programs offered under the above listed Acts shall commence 35 days after this decision is served. As a disqualified entity, the Respondent will be reported to the U.S. General Services Administration (GSA) pursuant to 7 C.F.R. § 3017.505. GSA publishes a list of all persons and entities who are determined ineligible in its Excluded Parties List System (EPLS).

3. A civil fine of \$1,000 is imposed upon the Respondent, pursuant to sections 515(h)(3)(A) and (h)(4) of the Act (7 U.S.C. §1515(h)(3)(A) and (4)),. This civil fine shall be paid by cashier's check or

money order or certified check, made payable to the order of the “**Federal Crop Insurance Corporation**” and sent to:

Federal Crop Insurance Corporation  
Attn: Kathy Santora, Collection Examiner  
Fiscal Operations Branch  
6501 Beacon Road, Room 271  
Kansas City, Missouri 64133

This order shall be effective 35 days after this decision is served upon the Respondent unless appealed to the Judicial Officer pursuant to 7 C.F.R. §1.145.

Done at Washington, D.C.  
August 4, 2009

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**PETER M. DAVENPORT**  
Administrative Law Judge