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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
 Janet Palmer,) FCIA Docket No. 18-0043
)
 Respondent.)

DECISION AND ORDER WITHOUT HEARING BY REASON OF CONSENT

Appearance:

Adam J. Hermann, Esq., with the Office of the General Counsel, United States Department of Agriculture, Kansas City, MO, for the Complainant, Federal Crop Insurance Corporation ("FCIC").

Preliminary Statement

This is a proceeding under the Federal Crop Insurance Act (7 U.S.C. §§ 1501 *et seq.*) ("FCIA"); the regulations promulgated pursuant to FCIA (7 C.F.R. §§ 400.451 through 400.458) ("Regulations"); and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130 through 1.151) ("Rules of Practice").

The Manager of the Federal Crop Insurance Corporation ("FCIC") ("Complainant") initiated this matter against Janet Palmer ("Respondent") by filing a complaint on June 6, 2018. The Complaint alleged that Respondent violated section 515(h) of FCIA (7 U.S.C. § 1515(h)) by willfully and intentionally providing false or inaccurate information regarding a crop insurance policy to FDIC and the Occidental Fire and Casualty Company of North Carolina.¹ The Complaint requested that a civil fine of \$11,000.00 be imposed against Respondent.

¹ See Compl. ¶ I(a) ("Occidental Fire and Casualty Company of North Carolina was an Approved Insurance Provider (AIP) for the 2015 crop year under Sections 515(h) and 502(b)(2) of FCIA.").

Respondent was duly served with the Complaint and did not file an answer within the twenty-day period prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136).²

On July 26, 2018, I issued an order directing the parties to show cause, not later than twenty days after that date, why default should not be entered against Respondent (“Show Cause Order”).

On August 6, 2018, Respondent filed an email communication with the Hearing Clerk’s Office stating, *inter alia*, that she received the Order to Show Cause and “wish[ed] to make the payment of \$11,000.00.”³ Based on the context of the email, I infer Respondent was referring to the \$11,000.00 civil fine that was requested in the Complaint.

On August 14, 2018, Complainant filed a Motion for Entry of Default Decision and Order (“Motion for Default”) and proposed Default Decision and Order (“Proposed Decision”). Neither the Motion for Default nor the Proposed Decision addressed Respondent’s August 6, 2018 email, wherein Respondent indicated her desire to make payment.

Although Respondent’s email was filed prior to the Motion for Default, I find that Respondent consented to entry of a default decision that merely imposes an \$11,000.00 civil

² United States Postal Service records reflect that the Complaint was sent to Respondent via certified mail but returned “unclaimed” on June 26, 2018. In accordance with section 1.147(c)(1) of the Rules of Practice (7 C.F.R. § 1.147(c)(1)), the Hearing Clerk re-mailed the Complaint to the same address via ordinary mail on June 28, 2018. Respondent had twenty days from the date of service to file a response. 7 C.F.R. § 1.136(a). Weekends and federal holidays shall be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. § 1.147(h). In this case, Respondent’s answer was due on or before July 18, 2018. Respondent has not filed an answer in this matter. Failure to file a timely answer or failure to deny or otherwise respond to allegations in the Complaint shall be deemed, for purposes of this proceeding, an admission of the allegations in the Complaint, unless the parties have agreed to a consent decision. 7 C.F.R. § 1.136(c).

³ Email at 1.

fine, and does not contest Complainant's August 14, 2018 filings.

As Respondent failed to answer the Complaint, and upon motion by Complainant, this Decision and Order is issued without further procedure or hearing pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent is an individual with a mailing address in [REDACTED].
2. Respondent willfully and intentionally provided false or inaccurate information to an approved insurance provider or FCIC with respect to a policy or place of insurance under FCIA, as demonstrated in the Complaint.
3. Respondent willfully and intentionally submitted a crop insurance application with knowledge of its falsity or inaccuracy. Respondent did not sign said application until April 21, 2015 (after the applicable sales closing date); however, Respondent backdated said application to March 12, 2015 in an apparent attempt to ensure its timeliness.

Conclusions

1. The Secretary of Agriculture has jurisdiction in this matter.
2. Respondent willfully and intentionally provided false or inaccurate information to an approved insurance provider or FCIC in violation of FCIA (7 U.S.C. § 1515(h)).

ORDER

A civil fine of eleven-thousand dollars (\$11,000.00) is imposed upon Respondent. This civil fine shall be paid by cashier's check, money order, or certified check; made payable to the "Federal Crop Insurance Corporation"; and sent to:

Federal Crop Insurance Corporation
PAAD/FAOB-Mail Stop 0814
P.O. Box 419205
Kansas City, MO 54141-6205

This Decision and Order shall be final and effective without further proceedings thirty-five (35) days after service unless an appeal to the Judicial Officer is filed with the Hearing Clerk within thirty (30) days after service, as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139 and 1.145).

Copies of this Decision and Order shall be served by the Hearing Clerk upon each of the parties, with courtesy copies provided via email where available.

Done at Washington, D.C.,
this 16th day of August, 2018



Channing D. Strother
Acting Chief Administrative Law Judge

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