

relief against each of the Respondents. I am imposing no civil money penalty against Blackstock Orchards, Inc., because it has been dissolved.

PROCEDURAL HISTORY

Three separate complaints were issued in these matters. In Complaint FCIA 02-0006, First Fruit Organic Farms, Inc. (First Fruits) and Kris Kropp were alleged to have willfully and intentionally provided false information on their insurance application regarding the insurable interest of Blackstock Orchards. In that application, Blackstock Orchards, Inc. was represented to have an insurable interest in three orchards that were in fact no longer owned by them. The complaint alleges that First Fruits and Kropp knew that Blackstock Orchards, Inc. had no insurable interest on these three orchards, but continued to represent to the insurance agency that was writing the crop insurance policy that Blackstock Orchards had a 100 percent interest in the three orchards, in violation of the Act.

In complaint FCIA 02-0007 Ross Blackstock as an individual, was alleged to have (a) submitted various documents representing that Blackstock Orchards, Inc. maintained crop insurance on the three orchards that it sold to First Fruits, even though it had no insurable interest in the orchards, (b) made such representations during the time when Blackstock Orchards, Inc. did not even have any assets, and (c) continued to represent that Blackstock Orchards, Inc. had a 100% interest in three orchards. As a result, Blackstock Orchards, Inc. was indemnified for crop losses. The complaint also alleges that Ross Blackstock “willfully and intentionally” provided false information, and requests that civil fines and disqualification from FCIA program participation be imposed.

Complaint FCIA 02-0008, against Blackstock Orchards, Inc., alleges that Ross Blackstock on behalf of his corporation, submitted similar false information by representing that it had a 100 percent interest in the three orchards that it had sold to First Fruits, even though Blackstock knew it had no such interest, allowing it to illegally maintain crop insurance coverage on these orchards, during a time period when it had no insurable interest and even when it had no assets. The complaint further requests that Blackstock Orchards, Inc. and “anyone with a substantial beneficial interest” in the company be disqualified from FCIA program participation.

All parties filed timely answers to the complaints. On March 5, 2003, former Chief Judge Hunt consolidated the Ross Blackstock and Blackstock Orchards, Inc. cases for hearing. All three cases were subsequently transferred to my docket. In two telephone conferences held the week before the hearing in October 2003, all parties agreed that all three cases should be consolidated for hearing purposes. On October 27, 2003, I held a consolidated hearing in all three cases in Grand Junction, Colorado.

FINDINGS OF FACT¹

1. Blackstock Orchards, Inc. was a Colorado Corporation that was established on November 18, 1971. SF 1.

¹ The parties stipulated to many of the pertinent facts. The facts stipulated to by Ross Blackstock and Blackstock Orchards, Inc. were signed by their counsel, while the facts stipulated to by First Fruits Organic Farms and Kris Kropp were signed by Kris Kropp. Other than their captions and their signatories (both were signed by government counsel) the documents are identical, so I will simply cite to them as Stipulated Facts (SF).

2. Throughout the existence of Blackstock Orchards, Inc., Ross H. Blackstock served as its President. He was also on the corporation's Board of Directors. SF 2.
3. Blackstock Orchards, Inc was dissolved in May of 1998. SF 3.
4. First Fruits Organic Farms, Inc. (First Fruits) is a Colorado Corporation that was established on March 13, 1995. The Corporation continues to operate and is registered with the State of Colorado Secretary of State. SF 4.
5. Kris A. Kropp has been the President and Registered Agent of First Fruits since its inception. SF 5.
6. On March 3, 1995, ten days before they established First Fruits as a corporation, brothers Kris and Alan Kropp entered into a "Commercial Contract to Buy and Sell Real Estate" with Blackstock Orchards, Inc. Ross and Virginia Blackstock signed on behalf of the seller, Blackstock Orchards, Inc. as its president and secretary, respectively. SF 6, CX4.
7. Under the terms of the contract, Blackstock Orchards, Inc. sold the Kropps real estate in Delta County Colorado, including apple orchards, as well as buildings, machinery and equipment. Blackstock Orchards, Inc., financed most of the sale, with the transaction secured by deeds of trust. SF 7-8, CX1-4.
8. The deeds of trust and a promissory note were signed by the parties on April 18, 1995 to complete the transaction. On the same day, warranty deeds were filed with the county to record the change in ownership. Documents filed on April 18th were in the name of First Fruits rather than the Kropps. CX1, SF9.

9. In 1994, Blackstock Orchards, Inc. possessed a continuous crop insurance policy that covered its apple orchards. The policy insured the crops that were on the land that was sold to the Kropps/First Fruits. Blackstock Orchards, Inc. did not have any crops that were insured on any other acreage. SF 12.
10. Blackstock Orchards, Inc. never cancelled the crop insurance policy once the land was sold in 1995, and the policy continued through crop year 2000, in the name of Blackstock Orchards, Inc., even though it no longer owned the orchards after the sale of the land. SF 13-14. Tr. 31, 148, 151-52.
11. Between 1995 and 2000, Ross Blackstock and Kris Kropp signed a number of crop insurance documents relating to the crop insurance policy on the property sold to First Fruits, and submitted these documents to the insurance provider through the crop insurance agent. These documents included acreage reports and production worksheets. SF 15, 16.
12. Each of the documents described in Finding 11 listed Blackstock Orchards, Inc. as the insured entity. SF 17.
13. Ross Blackstock signed and submitted, on behalf of Blackstock Orchards, Inc., a number of production worksheets, which listed the amount of production purportedly harvested by Blackstock Orchards, Inc., as the insured, during the respective crop year. Tr. 32, CX 8, 9, 10.5, 11.11, 13.9, 16.1. At hearing, Ross Blackstock admitted that by signing these and other documents he was certifying that Blackstock Orchards, Inc. had the acreage that was listed on these documents and produced the stated amount of crops. Tr. 153-54.

14. Once Blackstock Orchards, Inc. sold the orchards to First Fruits, it was no longer in the orchard business. After the transfer of land was effectuated, neither Blackstock Orchards, Inc., nor Ross Blackstock, has produced any apples or other agriculture commodities eligible for insurance by the FCIC. Tr. 151.
15. A letter written by Respondent's counsel on August 1, 1997, represented that Blackstock Orchards, Inc. had no assets. CX-12
16. Blackstock Orchards, Inc. was formally dissolved in May of 1998. SF3.
17. On or about April 1995, Ross Blackstock discussed the pending sale of the orchards with Myrna Murray, his FCIC insurance agent. Mr. Blackstock informed Ms. Murray that he wanted the land and orchards he was selling to be insured. Ms. Murray knew that the purchasers had orchards in Delta County, Colorado that were not insured under the FCIA program, and that in order to be insured under that program, all property in Delta County, Colorado owned by the purchasers would have to be insured. Ms. Murray and Mr. Blackstock decided that because of Blackstock Orchard, Inc.'s financial interest in the property as the holder of the mortgage note, the insurance could remain in the name of Blackstock Orchard, Inc. Tr. 168-171.
18. Ms. Murray testified that if she knew that Blackstock Orchards, Inc. had dissolved in 1998, she would not have allowed them to insure under that name. Tr. 175-76. Between May 1998, when the corporation officially dissolved, and 2000, Ms. Murray was never advised by any of the respondents that Blackstone Orchards, Inc. was dissolved. Tr. 174.

19. Ross Blackstock maintained crop insurance on the orchards that he sold, in the name of Blackstock Orchards, Inc., until insurance coverage was denied in crop year 2000. During this time, he and/or Blackstock Orchards, Inc. were reimbursed by First Fruits for the insurance premiums. Blackstock Orchards, Inc. received insurance proceeds at least twice during this period, and in both instances the proceeds were forwarded to First Fruits. KX1, RX 1-4, Tr. 137-142.
20. Blackstock Orchards, Inc. did not produce any crops once it sold its orchards to First Fruits. Tr. 151-52.
21. Once it sold its orchards to First Fruits, Blackstock Orchards, Inc. did not own any shares (fractional interest) in agricultural commodities that would be eligible for insurance coverage under the FCIA. (CX 26 page 2 of 6 at Sec. 1(nn), CX 27 page 1 of 4 at Sec. 2c. See also Appendix B)
22. Even after it was dissolved, Respondents continued to use the Blackstock Orchards, Inc. corporate name and corporate employer identification number (EIN) for purposes of maintaining insurance on the orchards that were sold to First Fruits. Tr. 155.
23. During the crop years at issue, Fresh Fruits was the owner of orchards in Delta County, Colorado which were uninsured under the FCIA program and which were in addition to the orchards purchased from Blackstock Organic, Inc. Tr. 79-80, 168-71.
24. Kris Kropp signed FCIA program crop insurance related documents either on his on behalf, or on behalf of either Fresh Fruits Organic, Inc. or Blackstock Orchards, Inc., which indicated that Blackstock Orchard's, Inc. was the insurance

applicant and/or producer of crops on the property owned by First Fruits. CX 11.4(1-2), CX 11.7 (1-2), CX 11.10, CX 11.11 (1-3), CX 12, CX 13.9, CX 16.3 (1-2), CX 16.4 CX16.5, 16.7, 16.8 (1-4), 16.9. 16.10 (1-4), 16.1, 16.12 (1-3), CX17, CX22 (1-3), 22.1, 22.2 (1-4), CX 22.3, CX 22.4 (1-5), CX 22.5, CX 22.6 (1-2).

25. The annual insurance premiums for First Fruits Organic, Inc. would be higher if they were required to insure all of their orchards in Delta County, Colorado with the FCIC. Tr. 71-73, 81-83.

CONCLUSIONS OF LAW

1. From the time it sold its orchards to First Fruits in April 1995, neither Ross Blackstock nor Blackstock Orchards, Inc. had any insurable interest in the orchards.
2. Only “producers” of agricultural commodities may be insured under the Act. Neither Ross Blackstock nor Blackstock Orchards, Inc., were producers of agricultural commodities from the time the orchards were sold to First Fruits.
3. The Apple Crop Insurance Policy and the Common Crop Insurance Policies, which between them covered apple crops from 1995 through 2000, each stated that in order to purchase insurance, the insured party must have a share in the insured crop. At no time after the sale to First Fruits did Ross Blackstock or Blackstock Orchards, Inc., have a share in any crop produced in any orchard.
4. Respondents, as participants in the federal crop insurance program, were required to know the terms of the Apple Crop Insurance Policy and the Common Crop Insurance Provisions.

5. Respondents knew that Blackstock Orchards, Inc. did not produce crops after it sold its orchards to First Fruits, and Respondents knew that Blackstock Orchards, Inc. had no shares in any of the production from these orchards after the sale. Nevertheless, Respondents reported a number of times information representing that Blackstock Orchards, Inc. was a producer, owned shares, or was otherwise the insured party for orchards, which it no longer owned. This constitutes repeated intentional reporting of false and misleading information.
6. A financial interest in the note or mortgage securing the purchase of agricultural property is not a “share” under the Act.

DISCUSSION

The Act is designed to “promote the national welfare by improving the economic stability of agriculture through a sound system of crop insurance.” 7 U.S.C. § 1502. The Crop Insurance program is administered by the FCIA, which imposes a number of conditions and restrictions governing eligibility for coverage. Among the conditions for coverage that are pertinent to resolution of these cases is the requirement that an insured be a “producer” with an “insurable share,” and that the producer must obtain coverage for each crop in the county if he is to obtain coverage for any crop. The Act limits the FCIC’s authority to insure crops to “producers of agricultural commodities grown in the United States,” against losses from “drought, flood or other natural disaster.” 7 U.S.C. § 1508(a)(1). As I discuss below, after April 1995 neither Ross Blackstock nor Blackstock Orchards, Inc., qualify as “producers” under the Act or the underlying regulations, nor did they own an “insurable share” in the crops at issue.

The Act provides penalties for the provision of false and inaccurate information to the FCIC, “or to any insurer with respect to an insurance plan or policy under this chapter” and subjects violators to “a civil fine not to exceed \$10,000” and “disqualif[ication] from purchasing catastrophic risk protection or receiving noninsured assistance for a period of not to exceed 2 years, or from receiving any other benefit under this chapter for a period of not to exceed 10 years.” 7 U.S.C. § 1506(n)(1). Any penalty assessment under these provisions “shall consider the gravity of the violation.” Id., at (n)(2).

Ross Blackstock and his wife Virginia Blackstock established Blackstock Orchards, Inc. as a Colorado Corporation in 1971. Mr. Blackstock served as its President until it was dissolved in May 1998. (Stipulated Facts). First Fruits Organic Farms, Inc., is a Colorado Corporation established on March 13, 1995. Id. Since its incorporation, Kris Kropp has been the President and Registered Agent of First Fruits. On March 3, 1995, Kris Kropp and his brother Kevin Kropp entered into an agreement with Blackstock Orchards to purchase land, including their apple orchards. CX4. The crop insurance policies for these orchards are the subject of these cases.

Blackstock Orchards financed the sale, receiving a down payment and holding a 20-year mortgage on the property. The agreement identified the Kropps as the buyers and Blackstock Orchards as the seller. Three ensuing groups of documents finalized and memorialized the transaction. These three documents—the Warranty Deeds, CX1, the Deed of Trust, CX2, and the Promissory Note—were executed on April 18, 1995, by which time the Kropps had incorporated and formed First Fruits Organic Farms, Inc.,

which is listed as the grantee of the orchards, with Blackstock Orchards, Inc. listed as the creditor on the note securing the properties.

One of the Additional Provisions in the contract (CX4) is the requirement that the seller maintain crop insurance on the property equal to the amount that the seller had when it owned the property, and that the buyer would reimburse the seller for the cost of the insurance. Id., at p.5. Accordingly, Blackstock Orchards, Inc. never cancelled the continuous crop policy covering these apple orchards that it had purchased in 1994, even though it did not have any other crops insured on any other acreage. SF 12. Even though Blackstock Orchards, Inc. was not a producer of any agriculture commodities (crops) on this property once it was sold in 1995, it continued to represent itself as a producer in various documents filed with the FCIC between 1995 and 2000. Each of these documents listed Blackstock Orchards, Inc. as the insured entity, even after the company was dissolved.

Between the time of the sale in 1995 and 2000, First Fruits reimbursed Blackstock for the cost of the crop insurance. When claims for crop damage claims were filed under the policy, the checks from the insurance were made out to Blackstock Orchards, Inc. and were promptly endorsed over to First Fruits. RX1-3, KX1.

One of the requirements for apple insurance by the FCIC is that a producer insure all the apples grown in a particular county in which the producer has a share. CX 27.2 at, paragraph 6, Tr. 45-46, 71-72. This requirement is specifically imposed by the Act. 7 U.S.C. § 1508(b)(6). First Fruits was producing apples in other orchards in Delta County, Colorado on which it did not maintain insurance. KX1. Insuring only a portion

of a producer's land would have an effect on the premium, based on the increase in the amount of acreage that would be covered as well as other factors, such as the actual production history of the land in question. Tr. 71-72.

There is no real dispute that First Fruits desired to insure the land that it had just purchased from Blackstock. Nor is there any dispute that Blackstock, as would any responsible lender holding a note on property, wanted the property that it was mortgaging to be fully insured so as to assure that it would maintain its value and that the promissory note would get paid off. The issue is whether a party holding a secured note may be insured as a "producer" under the FCIA, and whether representations to the FCIA and the company writing the insurance constitute violations of the Act and its regulations.

The matter is further complicated by the somewhat confusing and dubious roles played by the parties who wrote the insurance policies at issue. Thus Myrna Murray, the insurance agent who issued the insurance policy on the property involved in this case, testified that Ross Blackstock discussed the impending sale of his land with her, and indicated that he knew that the Kropps did not carry insurance on their other properties, and wanted to know if he could maintain the insurance even though he was selling the property. Tr. 168-171. She felt that Blackstock was "just trying to protect his interest," (Tr. 171) and that she did not think it was dishonest. She further testified that she knew, as an insurance agent for 27 years, that "... if you carry crop insurance in the county you have to insure all the property that you own in the county" and that "the Kropps didn't carry insurance on other properties." Tr. 173. In spite of this knowledge, she felt that as the seller of the property, Blackstock Orchards, Inc. had enough of an interest to entitle

him to coverage in its name, even though it was to the benefit of the Kropps. She further testified that she would not have let Blackstock Orchards, Inc. maintain the policy if she knew the corporation no longer existed. Tr. 175-176.

Neither Ross Blackstock nor Blackstock Orchards had an insurable interest, as contemplated under the Act and its regulations, in the property sold to the Kropps and First Fruit, from the time of the sale and transfer in March 1995. While Blackstock Orchards, Inc. and Ross Blackstock would have an interest in seeing that the property was insured, just as a bank requires that the purchaser of a home also must keep the property insured, this does not put them in the position to purchase insurance in their own right, particularly given the numerous restrictions imposed by the Act and the regulations. The Act, by its own terms, applies to “producers” of agricultural commodities, a qualification that neither Ross Blackstock nor Blackstock Orchards could meet once the land purchase was concluded. Indeed, Ross Blackstock testified that he was getting out of the business after more than two decades of involvement. Tr. 134-35. He not only sold the land, but also sold the machinery and equipment associated with the business. Tr. 148. Yet he repeatedly signed documents representing himself as the producer of the insurable crops, e.g., CX10, “Producer’s Pre-acceptance Worksheet,” even after his attorney represented that the corporation had no assets, (CX12) and even after the corporation was dissolved in May 1998. SF3. By signing the various crop insurance documents, Ross Blackstock was effectively certifying that Blackstock Orchards, Inc., which was named as the insured party, possessed the acreage in question, and that it produced and harvested apples as specified on the various forms. Tr. 154, CX 8, 9, 10.1,

10.5, 11.1, 11.11, 13, 13.9, 16.1, 22.2. In so doing, he was willfully and intentionally providing false information as contemplated by the Act.

The fact that the parties agreed that Blackstock Corporation, Inc. would take out the insurance is of no moment. The fact that two parties to the purchase contract agreed that they would, in essence, submit false statements to secure insurance coverage, does not excuse or legalize their conduct. And while there is some discrepancy as to exactly who said what to whom, and how much knowledge each person had of the legality of their actions, participants in the FCIA program are charged with being knowledgeable of the law and the regulations governing their participation in the program. This is particularly true for Ross Blackstock, who not only had been in the orchard business for over two decades, but also had served on the Farm Service Agency County Committee, Tr. 144. As such, he was aware of the concept of what a “share” was, and is, and should have known that he had no “share” in the production of these orchards from the time of the sale, and accordingly had no insurable interest.

Likewise, Kris Kropp was an experienced orchardist, having been in the business since 1981. KX-1. He clearly knew of the requirement that crop insurance could only be purchased if all the apples in the county in which he had a share were insured, as specified, e.g., in the Apple Crop Insurance Provisions as revised in 1998, which were in effect for Crop Years 1999 and 2000. CX 27.2 at paragraph 6.

Further, anyone who participates in the FCIA program is presumed to be aware of the terms and conditions of the policies. The crop insurance “[r]egulations were binding on all who sought to come within the Federal Crop Insurance Act, regardless of what is in

the [r]egulations or the hardship resulting from innocent ignorance.” FCIC v. Merrill, 332 U.S. 380, 385 (1947).

I find it clear, if not manifestly obvious, that Kris Kropp, acting for First Fruits Organic, Inc, Ross Blackstock, acting on his own behalf and as the owner of Blackstock Orchards, Inc., and Myrna Murray, the insurance agent, acted together to find a way for First Fruits to obtain crop insurance on the property it bought from Blackstock without having to insure all its apple orchards in the county. While Ross Blackstock had a legitimate business interest in having First Fruit insure the property it had purchased from him and his company, he could not legally further this interest by his misrepresentation that he or Blackstock Orchards, Inc. was a producer, owned a share, or had an ownership interest in these orchards. That these misrepresentations continued even after the corporation was represented as having no assets, and even after it was dissolved, compounds the egregiousness of the matter. Similarly, it is apparent that First Fruits desired to maintain no insurance on its other apple orchards in the county, and believed that by allowing Blackstock to falsely provide information indicating that it was the owner, producer, shareholder, etc., Fresh Fruits could reap the benefit of crop insurance for the property sold by Blackstock without paying the larger premium that would be required if all its orchards in the county were insured. And it is abundantly clear that Myrna Murray, the insurance agent, knew about and tried to accommodate the desires of First Fruits and Blackstock. Perhaps everyone thought that there was a legitimate loophole in the regulations governing insurance coverage, although this would require an extremely strained and utterly unreasonable interpretation of the law and facts, given the clear

language of the statute, the regulations, the language of the policies in effect, and the actual knowledge of the participants.

SANCTIONS

As stated above, the Act provides for the assessment of a “civil fine” of up to \$10,000 per violation, along with disqualification from program participation. The FCIA, and presumably the Administrative Law Judge, is required “to consider the gravity of the violation.” There is an absence of specific guidance as to how to determine the gravity of a violation in the statute, the regulations, and the case law.

In my sanction determinations I considered that (1) the violations continued over a period of six crop years, (2) the parties were aware that neither Blackstock Orchards, Inc., nor Ross Blackstock, had any ownership interest in the property after sale, other than as the secured holder of a mortgage, (3) there was no possible interpretation that would allow any respondent other than First Fruits or Kris Kropp to be listed as a producer or as an owner of a share in the crops, (4) all the parties knew that in order to insure crops under the FCIA that all crops in Delta County, Colorado owned by the producer had to be insured, (5) Kris Kropp and First Fruits benefited from these violations in that he was able to obtain insurance at a lower rate than if he had insured all his crops in Delta County, and that he in fact received insurance proceeds for losses during the policy period, and (6) Ross Blackstock benefited from these violations in that his interests as the holder of the mortgage were made more secure. I am also aware that if the Respondents had received proper advice from the insurance agent, or that the agent had properly refused to insure the property after the sale, then there is a possibility that these violations would not have occurred.

Respondents willfully and intentionally provided inaccurate or false information to the FCIC beginning in April 1995 and extending into 2000. This is just the type of violation that the administrative sanctions authority under the Act is intended to curb. While Complainant is seeking the maximum penalty that can be imposed for a single violation of the Act in each of the three Complaints, the violation is sufficiently grave, particularly considering that Complainant likely could have sought sanctions for each individual crop year the violation occurred,² to warrant imposition of the maximum penalty. Thus, I order the following:

Docket No. 02-0006—A civil fine of \$10,000 is imposed jointly on Respondent First Fruits Organic Farms, Inc. and Kris Kropp. Further, I am disqualifying First Fruits and Kris Kropp from purchasing catastrophic risk protection or receiving non-insured assistance for a period of two years, and from receiving any other benefit under the Act for a period of ten years.

Docket No. 02-0007—A civil fine of \$10,000 is imposed on Ross Blackstock. Further, I am disqualifying Ross Blackstock from purchasing catastrophic risk protection or receiving non-insured assistance for a period of two years, and from receiving any other benefit under the Act for a period of ten years.

Docket No. 02-0008—A civil fine of \$10,000 is imposed on Blackstock Orchards, Inc. However, I am staying the imposition of this fine because Blackstock Orchards, Inc. is dissolved. Further, I am disqualifying Blackstock Orchards, Inc. from purchasing catastrophic risk protection or receiving non-insured assistance for a period of two years,

² Indeed, 7 C.F.R. § 400.458 would theoretically allow the FCIC the ability to seek “any and all benefits applicable to any crop year for which the scheme or device was adopted,” when a person has supplied false information for the purpose of evading provisions of the FCIA.

and from receiving any other benefit under the Act for a period of ten years. I am also staying the disqualification because of the present non-existence of Blackstock Orchards, Inc. This stay will continue unless Blackstock Orchards, Inc. reincorporates or otherwise resumes the conducting of business.

The provisions of this order shall become effective on the first day after this decision becomes final. Unless appealed pursuant to the Rules of Practice at 7 C.F.R. § 1.145(a), this decision becomes final without further proceedings 35 days after service as provided in the Rules of Practice, 7 C.F.R. 1.142(c)(4).

Copies of this decision shall be served upon the parties.

Done at Washington, D.C.
this 17th day of May 2004

Marc R. Hillson
Marc R. Hillson
Chief Administrative Law Judge

APPENDIX A

UNITED STATES CODE

7 USC Sec. 1508

01/06/03

TITLE 7 - AGRICULTURE

CHAPTER 36 - CROP INSURANCE

Sec. 1508. Crop insurance

...

(b) Catastrophic risk protection

(6) Participation requirement

A producer may obtain catastrophic risk coverage for a crop of the producer on land in the county **only if** the producer obtains the coverage for the crop on all insurable land of the producer in the county. [Emphasis added]

....

(f) Eligibility

(1) In general

To participate in catastrophic risk protection coverage under this section, a producer shall submit an application at the local office of the Department or to an approved insurance provider.

....

7 USC Sec. 1518

01/06/03

TITLE 7 - AGRICULTURE

CHAPTER 36 - CROP INSURANCE

Sec. 1518. "Agricultural commodity" defined

"Agricultural commodity", as used in this chapter, means wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugar cane, tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, **apples**, grapes, potatoes, timber and forests, nursery crops, citrus, and other fruits and vegetables, nuts, tame hay, native grass, aquacultural species (including, but not limited to, any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or

aquatic plant propagated or reared in a controlled or selected environment), or any other agricultural commodity, excluding stored grain, determined by the Board, or any one or more of such commodities, as the context may indicate. [Emphasis added]

...

7 USC Sec. 1520

01/06/03

TITLE 7 - AGRICULTURE

CHAPTER 36 - CROP INSURANCE

Sec. 1520. Producer eligibility

Except as otherwise provided in this chapter, a producer shall not be denied insurance under this chapter if -

(1) for purposes of catastrophic risk protection coverage, the producer is a "person" (as defined by the Secretary); and

(2) for purposes of any other plan of insurance, the producer is 18 years of age and has a bona fide insurable interest in a

crop as an **owner-operator, landlord, tenant, or sharecropper**. [Emphasis added]

APPENDIX B

C.F.R

[Code of Federal Regulations]

[Title 7, Volume 6]

[CITE: **7CFR400.46**]

TITLE 7--AGRICULTURE

CHAPTER IV--FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF
AGRICULTURE

PART 400_GENERAL ADMINISTRATIVE REGULATIONS--Table of Contents

Subpart F_Food Security Act of 1985, Implementation; Denial of Benefits

Sec. 400.46 Definitions.

For the purpose of this regulation and in addition to the definitions included at 7 CFR 12.2, the following definitions are applicable:

...

(b) Person means any producer, tenant, or landlord, insured under a policy of crop insurance issued by FCIC, or by a multi-peril insurance company whose crop insurance policy is reinsured by FCIC.

...

[Code of Federal Regulations]

[Title 7, Volume 6]

[CITE: **7CFR402.4**]

TITLE 7--AGRICULTURE

CHAPTER IV--FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF
AGRICULTURE

PART 402_CATASTROPHIC RISK PROTECTION ENDORSEMENT--Table of Contents

Sec. 402.4 Catastrophic Risk Protection Endorsement Provisions.

...

County. The political subdivision of a state listed in the actuarial table and designated on your accepted application, including land in an adjoining county, provided such land is part of a field that extends into the adjoining county and the county boundary is not readily discernable. ...

...

(b) For catastrophic risk protection coverage, a unit will be all

insurable acreage of the insured crop in the county on the date coverage begins for the crop year:

- (1) In which you have one hundred percent (100%) crop share; or
- (2) Which is owned by one person and operated by another person on a share basis.

(Example: If, in addition to the land you own, you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units; one for each crop share lease and one that combines the two cash leases and the land you own.)

...

(c) Further division of the units described in paragraph (b) above is not allowed under this Endorsement.

...

(b) For the purpose of determining the amount of indemnity only, your share will not exceed your insurable interest at the earlier of the time of loss or the beginning of harvest. Unless the accepted application clearly indicates that insurance is requested for a partnership or joint venture, insurance will only cover the crop share of the person completing the application. The share will not extend to any other person having an interest in the crop except as may otherwise be specifically allowed in this endorsement. Any acreage or interest reported by or for your spouse, child or any member of your household may be considered your share. A lease containing provisions for both a minimum payment (such as a specified amount of cash, bushels, pounds, etc.) and a crop share will be considered a crop share lease. A lease containing provisions for either a minimum payment (such as a specified amount of cash, bushels, pounds, etc.) or a crop share will be considered a cash lease. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the insured crop on such land will be considered as owned by the lessee.

...

[Code of Federal Regulations]

[Title 7, Volume 6]

[CITE: **7CFR457.158**]

TITLE 7--AGRICULTURE
CHAPTER IV--FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF
AGRICULTURE

PART 457_COMMON CROP INSURANCE REGULATIONS--Table of Contents

Sec. 457.158 Apple crop insurance provisions.

The Apple Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

FCIC Policies

United States Department of Agriculture

Federal Crop Insurance Corporation

...

6. Insured Crop

In accordance with section 8 of the Basic Provisions, the crop insured will be all the apples in the county for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That are grown on tree varieties that:

(1) Are adapted to the area;

(2) Are in area A and have produced at least an average of 10 bins per acre;

(3) Are in area B and have produced at least an average of 150 bushels per acre;

(4) Are in Area C [includes Colorado] and have produced at least an average of 200 bushels per acre; and

(c) That are grown in an orchard that, if inspected, is considered acceptable by us.