

**WILLIAM BECKMAN d.b.a. BURGUNDY FARMS,** )

**AGBCA No. 2003-123-1**

Appellant )

**Appearing for the Appellant:** )

William Beckman, pro se )

4909 N. Monroe Street )

Tallahassee, Florida 32303 )

**Appearing for the Government:** )

Mark R. Simpson, Esquire )

Office of the General Counsel )

U. S. Department of Agriculture )

1718 Peachtree Rd., NW )

Atlanta, Georgia 30309-2409 )

**DECISION OF THE BOARD OF CONTRACT APPEALS**

**June 17, 2004**

**Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.**

**Opinion for the Board by Administrative Judge POLLACK.**

This appeal is a dispute over compensation for the termination for convenience of Contract No. 53-4670-01-04, Aerial Fertilization on Long Cane and Enoree Ranger Districts, Sumter National Forest, between William Beckman d.b.a. Burgundy Farms (Appellant) and the U. S. Department of Agriculture, Forest Service (FS), New Ellenton, South Carolina. Initially, the contract was terminated for default. The default termination was thereafter converted to a termination for convenience of the Government. Appellant submitted two settlement proposals, the last proposal dated September 3, 2002, was for \$82,517. The FS and Appellant were unable to agree as to the amount due under the termination for convenience and as a consequence, the Appellant, through counsel, filed an appeal on a deemed denial basis. The Board docketed the matter and soon thereafter directed the Contracting Officer (CO) to issue a final decision. The CO did that by decision dated February 6, 2003. In that decision the CO denied the majority of the sum claimed for the termination. The parties and Board then engaged in discussions. As a result, the CO paid the Appellant, the sum of \$19,684.95, the sum the FS considered payable under the termination for

convenience. That left the remainder still in dispute.

The Board has jurisdiction over this timely filed appeal pursuant to the Contract Disputes Act of 1978 (CDA), 41 U.S.C. § 601-613, as amended.

After docketing, the parties engaged in discussions and discovery. It thereafter became clear to the Board that settlement appeared unlikely. A hearing was set for June 15, 2004, in Macon, Georgia. The FS was represented by Mr. Mark Simpson, counsel for the FS. Accompanying Mr. Simpson was Ms. Stephanie Gayton, Director of Procurement and Property, Southern Research Station, Asheville, North Carolina. Appellant was represented by Mr. William Beckman, principal for the Appellant. Up to the time of the hearing, Appellant had been represented by counsel, however, on the date of the hearing, Appellant's counsel, Mr. Joseph Broadus, did not appear at the hearing and had provided no notice to the Board, the FS, nor to his client regarding that failure to appear.

In lieu of proceeding with the hearing, the FS proposed, and Mr. Beckman agreed, that the Board and parties would first discuss the case and issues to see if that would lead to a settlement. Mr. Beckman voluntarily agreed to proceed without the assistance of counsel.

As a result of discussions, the Appellant and the FS arrived at a settlement. The parties agreed that the FS would pay the Appellant the sum of \$15,565 for termination costs beyond the amount already paid, as well as an additional \$8,000 as legal fee termination costs, for a total of \$23,565. The payment would be in full settlement of any and all costs associated with the termination for convenience and would resolve all claims associated with that termination. The FS will pay the sum within 45 days of receipt of the Board's written decision and if payment is not made within the 45 days, interest will begin to accrue as of the 46<sup>th</sup> day and run until payment is made. The interest shall be at the Government prescribed prompt payment rates.

The parties requested that the Board grant the appeal, based on the settlement reached by the parties. The FS is to pay \$23,565 in full settlement and Appellant has agreed that this closes out all claims.

### **DECISION**

The Board grants the appeal. Appellant is to receive an additional \$23,565 as provided in the parties' settlement. By agreement of the parties, this represents the Board's final decision and neither party will seek reconsideration or appeal the decision.

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**HOWARD A. POLLACK**  
Administrative Judge

**Concurring:**

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**JOSEPH A. VERGILIO**  
Administrative Judge

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**ANNE W. WESTBROOK**  
Administrative Judge

**Issued at Washington, D.C.**  
**June 17, 2004**