

AGRIGOLD JUICE PRODUCTS,)	AGBCA No. 1999-195-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
Reid Neu)	
General Manager and Partner)	
Agrigold Juice Products)	
P.O. Box 1630)	
Corona, California 91718-1630)	
)	
Representing the Government:)	
)	
John R. Lom)	
Michael D. Gurwitz)	
Office of the General Counsel)	
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International Affairs and Commodity Programs)	
Room 2013, South Building)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

May 23, 2000

Before HOURY, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge VERGILIO.

On September 13, 1999, the Board received this appeal filed by Agrigold Juice Products of Corona, California. The respondent is the U. S. Department of Agriculture, Agricultural Marketing Service (Government). Agrigold delivered frozen orange juice concentrate under a contract, No. 120292139. Three deliveries contained soluble solids less than specified in the contract. The Government accepted the deliveries, but later took a price reduction, as it applied a “discount” (twice the shortfall) of \$7,183.92, to the shipments. The contractor disputes the penalty assessment, because the “discount” provision is not part of the contract.

The Board has jurisdiction over this timely-filed appeal pursuant to the Contract Disputes Act (CDA), 41 U.S.C. §§ 601-613, as amended. After the submission of an appeal file, a complaint, and answer, as well as telephone conferences with the Board, the parties settled the dispute.

On January 19, 2000, the Board received a settlement agreement that specifies that the Government agrees to pay Agrigold \$6,000 to settle the dispute, with each party to bear its own costs. The agreement also provides that, upon payment of the amount, which is to represent a release and discharge from all actions, claims and demands related to the appeal, the parties are to jointly request the Board to dismiss the appeal, with prejudice. On May 18, 2000, Agrigold informed the Board that it has received payment; as specified during a telephone conference with the Board held on April 25, 2000, this notification serves as the joint request for a dismissal with prejudice.

DECISION

The Board dismisses with prejudice the appeal.

JOSEPH A. VERGILIO

Administrative Judge

Concurring:

EDWARD HOURY

Administrative Judge

ANNE W. WESTBROOK

Administrative Judge

Issued at Washington, D.C.

May 23, 2000