

<b>PASTA USA, INC.,</b>	)	<b>AGBCA Nos. 2001-119-1</b>
	)	<b>2001-120-1</b>
Appellant	)	<b>2001-121-1</b>
	)	<b>2001-122-1</b>
<b>Representing the Appellant:</b>	)	<b>2001-123-1</b>
	)	<b>2001-124-1</b>
Richard Clemson, President	)	<b>2001-125-1</b>
PASTA USA, INC.	)	<b>2001-126-1</b>
3405 E. Bismark Court	)	
Spokane, Washington 99207	)	
	)	
<b>Representing the Government:</b>	)	
	)	
Michael Gurwitz	)	
Office of the General Counsel	)	
U. S. Department of Agriculture	)	
Room 4311-South Building	)	
1400 Independence Avenue, SW	)	
Washington, D. C. 20250	)	

**DECISION OF THE BOARD OF CONTRACT APPEALS**

**September 28, 2001**

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

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

These appeals arose under Contract Nos. 4491, 4513, 4544, 4611, 4614, 4739, 4744, and 4747 between the U. S. Department of Agriculture (USDA), Farm Service Agency, Kansas City Commodity Office, Kansas City, Missouri (Commodity Credit Corporation or Government) and Pasta USA, Inc. of Spokane, Washington. The contracts were for delivery of various pasta products for use in domestic food programs, which are programs administered by the Food and Nutrition Service of USDA.

These appeals concern a claim for remission of liquidated damages which the Government initially assessed against Pasta in the amount of \$187,993.26, due to the Government's determination that deliveries were received after contract deadlines. The Government thereafter made an interim reduction in the liquidated damages assessment to \$82,207, the amount set forth in the final decision of the Contracting Officer. Appellant filed a timely appeal and the appeals were docketed on

January 19, 2001. Appellant contested the imposition of the damages, and among its defenses, challenged the reasonableness of the amount used for liquidated damages, contested some of the delivery date findings of the Government and attributed late deliveries to Government actions. The Board has jurisdiction pursuant to the Contract Disputes Act, 41 U.S.C. §§ 601-613, as amended.

On April 28, 2001, the Board held a telephone conference with the parties during which time basic factual and legal arguments were discussed. Thereafter, the parties engaged in discussions in an attempt to reach a settlement. On August 30, 2001, the Board was notified by counsel for the Government that the Commodity Credit Corporation and Pasta had reached a settlement agreement. A copy of the agreement was provided. The agreement stated that the settlement was full settlement of Pasta's appeal before the USDA Board of Contract Appeals.

**DECISION**

These appeals are dismissed with prejudice.

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**HOWARD A. POLLACK**  
Administrative Judge

**Concurring:**

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**EDWARD HOURY**  
Administrative Judge

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**JOSEPH A. VERGILIO**  
Administrative Judge

**Issued at Washington, D. C.**  
**September 28, 2001**