

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) FCIA Docket No. 09-0120  
 )  
Mildred Porter, )  
 )  
Respondent ) **Decision and Order**

**PROCEDURAL HISTORY**

William J. Murphy, Acting Manager, Federal Crop Insurance Corporation [hereinafter the Manager], instituted this administrative proceeding by filing a Complaint on May 21, 2009. The Manager instituted the proceeding under the Federal Crop Insurance Act, as amended (7 U.S.C. §§ 1501-1524) [hereinafter the Federal Crop Insurance Act]; regulations promulgated under the Federal Crop Insurance Act (7 C.F.R. pt. 400) [hereinafter the Regulations]; and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130-.151) [hereinafter the Rules of Practice]. The Manager alleged that Mildred Porter violated the Federal Crop Insurance Act and the Regulations by willfully and intentionally providing false or inaccurate information to her insurance provider, Rain and Hail, LLC, and to the Federal Crop Insurance Corporation. On June 11, 2009, Ms. Porter filed a response in which she denied the allegations of the Complaint.

Administrative Law Judge Peter M. Davenport [hereinafter the ALJ] conducted an oral hearing on October 27, 2009, in Abingdon, Virginia. Mark R. Simpson, Office of the General Counsel, United States Department of Agriculture, Atlanta, Georgia, represented the Manager. Terry G. Kilgore, Kilgore Law Office, Gate City, Virginia, represented Ms. Porter. Eleven witnesses testified and the ALJ received 68 exhibits into evidence. On January 7, 2010, the Manager filed a post-hearing brief, and on January 13, 2010, Ms. Porter filed a post-hearing brief.

On February 4, 2010, the ALJ issued a Decision and Order: (1) concluding Ms. Porter violated the Federal Crop Insurance Act and the Regulations by willfully providing false and incorrect information to Rain and Hail, LLC, and the Farm Service Agency, United States Department of Agriculture; (2) disqualifying Ms. Porter for 2 years from receiving any monetary or non-monetary benefit under seven specific statutory provisions and any law that provides assistance to a producer of an agricultural commodity affected by a crop loss or a decline in the prices of agricultural commodities; and (3) assessing Ms. Porter a \$5,000 civil fine (Decision and Order at 7-9). On February 18, 2010, the ALJ issued a Supplemental Order amending the address to which Ms. Porter was required to send the payment of the civil fine.

On March 8, 2010, Ms. Porter filed “Respondent’s Supporting Statement for Appeal” [hereinafter Appeal Petition]. On March 31, 2010, the Manager filed “Complainant’s Response to Respondent’s Supporting Statement for Appeal.” On

April 5, 2010, the Hearing Clerk transmitted the record to the Judicial Officer for consideration and decision.

Based upon a careful review of the record, I affirm the ALJ’s February 4, 2010, Decision and Order, as amended by the ALJ’s February 18, 2010, Supplemental Order.

**MS. PORTER’S APPEAL PETITION**

Ms. Porter’s Appeal Petition reads in its entirety:

**UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE**

**In Re:** )  
 )  
**MILDRED PORTER** ) **FCIA Docket No. 09–0120**  
**RESPONDENT** )

**RESPONDENT’S SUPPORTING STATEMENT FOR APPEAL**

Comes Now the Respondent, Mildred Porter, by Counsel and states the following:

- 1. The Decision and Order dated February 4, 2010 was not based upon the facts presented at the hearing held on October 27, 2009.
- 2. The Decision and Order was not based upon the law and procedures regarding this type of case.

MILDRED PORTER  
BY: COUNSEL

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The ALJ's Decision and Order is replete with citations to the record which support the ALJ's Decision and Order. Based on my review of the transcript and the exhibits received into evidence and the ALJ's Decision and Order, I conclude the ALJ's Decision and Order is based upon the facts presented at the October 27, 2009, hearing. Moreover, the ALJ's Decision and Order is properly based on the Federal Crop Insurance Act and the Regulations and the ALJ conducted the proceeding in accordance with the Rules of Practice, as required by 7 C.F.R. § 400.454(a). Therefore, I reject Ms. Porter's contentions that the ALJ's Decision and Order was not based upon facts presented at the October 27, 2009, hearing, and the law and procedures applicable to a proceeding conducted under 7 U.S.C. § 1515(h) and 7 C.F.R. §§ 400.451-.458.

For the foregoing reasons, the following Order is issued.

**ORDER**

The ALJ's Decision and Order, dated February 4, 2010, as amended by the ALJ's Supplemental Order, dated February 18, 2010, is affirmed.

Done at Washington, DC

April 7, 2010

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William G. Jenson  
Judicial Officer