

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --)
)
Samuel Gallin) ASBCA No. 53365
)
Under Contract No. 000000-00-0-0000)

APPEARANCE FOR THE APPELLANT: Mr. Samuel Gallin
Owner

APPEARANCES FOR THE GOVERNMENT: Fred A. Phelps, Esq.
Navy Chief Trial Attorney
Stephanie Cates-Harman, Esq.
Assistant Director
E. Richard Southern, Esq.
Senior Trial Attorney

OPINION BY ADMINISTRATIVE JUDGE FREEMAN
ON MOTION TO DISMISS

The Government moves to dismiss this appeal, citing appellant's failure to certify his claim seeking payment of \$5,000,000. Appellant's reply does not assert that the claim was certified, but requests only "that there should be no dismissal."

A claim exceeding \$100,000 must be certified. 41 U.S.C. § 605(c)(1). This is a jurisdictional requirement. *Cf. Eurostyle Incorporated*, ASBCA No. 45934, 94-1 BCA ¶ 26,458 at 131,654. The contracting officer's decision on the merits does not cure the jurisdictional defect. *W.M. Schlosser Company, Inc. v. United States*, 705 F.2d 1336, 1338 (Fed. Cir. 1983). The appeal is dismissed without prejudice to submittal to the contracting officer of a certified claim.

Dated: 25 June 2001

MONROE E. FREEMAN, JR.
Administrative Judge
Armed Services Board
of Contract Appeals

(Signatures continued)

I concur

I concur

MARK N. STEMLER
Administrative Judge
Acting Chairman
Armed Services Board
of Contract Appeals

EUNICE W. THOMAS
Administrative Judge
Vice Chairman
Armed Services Board
of Contract Appeals

I certify that the foregoing is a true copy of the Opinion and Decision of the Armed Services Board of Contract Appeals in ASBCA No. 53365, Appeal of Samuel Gallin, rendered in conformance with the Board's Charter.

Dated:

EDWARD S. ADAMKEWICZ
Recorder, Armed Services
Board of Contract Appeals