



BRB No. 16-0023
Case No. 2015-LHC-00538
OCWP No. 13-105383

KAREN FULTON)	
(Widow of JESSE FULTON))	
)	
Claimant-Petitioner)	
)	
v.)	DATE ISSUED: <u>Nov. 16, 2015</u>
)	
COLBERG, INCORPORATED)	
)	
and)	
)	
INDUSTRIAL INDEMNITY)	
)	
Insolvent Employer/)	
Insolvent Carrier)	
)	
CALIFORNIA INSURANCE GUARANTEE)	
ASSOCIATION)	
)	
Putative Carrier-Respondent)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Respondent)	ORDER

Claimant has filed a timely notice of appeal of the Order Dismissing CIGA issued by Administrative Law Judge William J. King on September 16, 2015. 33 U.S.C. §921(a), (b); 20 C.F.R. §802.205(a). This appeal is acknowledged and is assigned the Board's docket number BRB No. 16-0023. All correspondence relating to this appeal must bear this number. 20 C.F.R. §802.210.

Claimant's appeal is taken from an interlocutory order of the administrative law judge. Claimant filed a claim for death benefits under the Act, alleging that her

husband's death, on December 11, 2007, was due to his exposure to asbestos at employer's facility during his employment in 1965, 1972 and 1973. 33 U.S.C. §909. Employer and its carrier are defunct. The California Insurance Guarantee Association (CIGA) was named a party in the stead of employer's carrier. CIGA moved to be dismissed from the proceedings under the Act on the ground that California law precludes its liability for benefits in this case. The administrative law judge granted CIGA's motion.

For the reasons stated in the Board's Order in *McCue v. Colberg, Inc.*, BRB No. 15-0037 (July 23, 2015) (Buzzard, J., dissenting), *recon. denied* (Oct. 22, 2015), we dismiss claimant's interlocutory appeal. The administrative law judge's dismissal of CIGA is fully reviewable after he rules on the merits of the claim and issues a final decision which "adversely or affects or aggrieves" any party. 33 U.S.C. §921(b); *J.T. [Tracy] v. Global Int'l Offshore, Ltd.*, 43 BRBS 92 (2009), *aff'd sub nom. Keller Found./Case Found. v. Tracy*, 696 F.3d 835, 46 BRBS 69(CRT) (9th Cir. 2012), *cert. denied*, 133 S.Ct. 2825 (2013); *Rochester v. George Washington University*, 30 BRBS 233 (1997); *Ahl v. Maxon Marine, Inc.*, 29 BRBS 125 (1995); *see also Rhine v. Stevedoring Services of America*, 596 F.3d 1161, 44 BRBS 9(CRT) (9th Cir. 2010); 20 C.F.R. §802.201(a).

Accordingly, claimant's appeal is dismissed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

RYAN GILLIGAN
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge