

Bond Case Briefs

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PROCUREMENT - PENNSYLVANIA

U.S. Venture, Inc. v. Commonwealth

Supreme Court of Pennsylvania - July 21, 2021 - A.3d - 2021 WL 3073379

Distributor of fuel products petitioned for review of Board of Claims' order, No. 4180, dismissing distributor's contractual claims arising out of Commonwealth's nonpayment of two alternative and clean energy (ACE) grants that distributor obtained to add compressed natural gas fuel pumps to existing fuel stations.

The Commonwealth Court affirmed. Distributor petitioned for allowance of appeal, which was granted.

The Supreme Court held that ACE grants were "grants" that were not subject to limited waiver of sovereign immunity under Procurement Code.

Commonwealth's award of Alternative and Clean Energy (ACE) grants to fuel products distributor to support distributor's plans to add compressed natural gas fuel pumps to two existing fuel stations were "grants" that were not subject to limited waiver of sovereign immunity under Procurement Code, and thus Board of Claims did not have jurisdiction to resolve distributor's contractual claims arising from nonpayment of grants, despite argument that grants were awarded with a primary purpose to procure construction, where Commonwealth had no ownership, control of, or interest in the privately-owned fuel pumps located on privately-owned property, and Commonwealth received nothing from the deals other than advancement of its desire to promote ACE program and reduce harmful emissions.