

Arbitration Decisions

July 24, 1974

ARBITRATION CASE NO. 1512

January 21, 1974

PLAINTIFF: The Pillsbury Company, St. Louis, Missouri

DEFENDANT: The Victoria Elevator Company, Minneapolis, Minnesota

The dispute arose over the contract quantity of a sample grade barge of soybeans purchased by the Plaintiff from the Defendant and the subsequent question of contract fulfillment after unloading at destination.

On the following evidence presented, the committee unanimously found in favor of the Defendant.

The trade was made December 15, 1972, by a Minneapolis employee of the Plaintiff. A copy of a purchase contract was submitted, written in St. Louis the same day showing the quantity to be 50,000 bushels, #1 YSB, price \$4.36 1/2 CIF Nola. Along with the usual terms was a barge number PV-2934.

The Defendant submitted a pan ticket copy which they stated was handed to the Plaintiff's employee on the Minneapolis trading floor immediately upon execution of the trade and the receipt of billing instructions. The card listed the barge number PV-2934 plus all factors of the grade which made it sample grade, as well as the terms of the trade. Also on the card was the net loading bushels of 48,374.21 and a loading date of 12/8/72.

The principals apparently had no further communication relative to the transaction until some unknown date in March, 1973 when the Plaintiff approached the Defendant to settle an underfill of 2,359.02 bushels based on their claim of buying 50,000 net bushels. The barge had unloaded at New Orleans on 2/2/73. Gross unloading weight was 50,095.40 bu. making a net after FM removal of 47,640.90.

The Defendant claimed the unload weight was within the trade rules allowable tolerance based on their spot sale of 48,374.21 net bu. They stated the Plaintiff had accepted without question the pan ticket application which they further stated serves as a sales contract on spot sales. They cited this as a trade practice normally used in their market. The Defendant further stated they had no record of having received a purchase confirmation from the Plaintiff. The Plaintiff in turn claimed the pan ticket was not a bona fide sales confirmation and they, therefore, had not received a sales confirmation from the Defendant as required by the Barge Trade Rules. They pointed to the Bill of Lading showing 50,000 bushels as further evidence of purchasing 50,000 net bu. and to the fact that beans are usually traded in 5,000 bu. multiples on the river.

According to the Plaintiff's statement, after repeated unsuccessful attempts to make a settlement with the Defendant, they removed from their hedge position the 2,359.02 bu. on the futures market close of June 29, 1973. Following established trade rules to determine tolerance values, they claimed a loss of \$15,038.63 based on the difference between the contract price and June 30 values.

The decision for the committee to make was whether this was a spot transaction with all factors known to both parties or whether the Plaintiff purchased a barge of beans, then later the same day agreed to accept this particular barge on the contract.

With the evidence available and considering previous trade practices, it was the unanimous opinion of the committee that the Plaintiff had to know the full factors of the barge before making the purchase, therefore, making it a spot transaction.

It was established that spot barges are usually traded on known weights and grades. It was established that it is a common trade practice in the Minneapolis market to use the grade card or pan ticket as a sales contract on spot transactions. The 50,000 bu. on the Bill of Lading was not a factor as all freight is billed on a gross bushel basis.

Under these circumstances, the Arbitration Committee felt it had no recourse but to find in favor of the Defendant.

The Arbitration Committee feels compelled to make two comments in closing this case.

1. The dispute might have been avoided had both parties determined promptly why neither received a trade confirmation from the other, as claimed.
2. The Pillsbury Co. could have avoided a considerable portion of their loss had they adjusted their hedged position when it first became apparent they were involved in a dispute rather than waiting three or more months to do so.

Arbitration Committee of the National Grain and Feed Association

/S/ Morris W. Champion, Chairman	/S/ John Schmid
Central Soya Co., Ft. Wayne, Ind.	Midwestern Grain Co., Kansas City, Mo.

/S/ Ronald Pratt, Early & Daniel Co., Cincinnati, Ohio

Decision of the Arbitration Appeals Committee for Arbitration Case No. 1512

May 6, 1974

The Arbitration Appeals Committee unanimously affirms the finding of the Arbitration Committee of the National Grain and Feed Association which found in favor of the Defendant; Victoria Elevator, in the above case.

Arbitration Appeals Committee of the National Grain and Feed Association

/S/ Fredric H. Corrigan, Chairman	/S/ Madison Clement
Peavey Company	Clement Grain Company

/S/ Bruce Cottier	/S/ Charles Holmquist
Bartlett & Company	Holmquist Elevator Company

/S/ H. V. Nootbaar
H. V. Nootbaar & Company