

Arbitration Case Number 1522

Plaintiff: Cargill Inc., Minneapolis, Minnesota

Defendant: Williams Grain Company, Golden Gate, Illinois

February 18, 1976

Statement of the Case

The case involved a dispute between the Plaintiff, Cargill Inc., (the buyer) and the Defendant, Williams Grain Company (the seller), concerning contract numbers 94403 and 94402. Said contracts were unpriced contracts and did not specify a mechanism for determining a flat price.

Since the contract was silent as to a pricing mechanism, it was the obligation of the seller, in accordance with the custom of the trade, to contact the buyer to determine a mutually acceptable price. On March 5, 1975, Cargill Inc. contacted Williams Grain Company and the parties agreed to price the contracts at the market price on that date. The price of the contracts was thereby fixed.

The Decision

The Trade Rules of the National Grain and Feed Association are not determinative on this question. The arbitration committee based its decision on the custom of the trade, which obligated the seller to contact the buyer to arrive at a mutually acceptable price. Unilateral pricing of the contract by either party would have been unacceptable to the arbitration committee. In this case, however, a price was in fact agreed upon by both parties on March 5, 1975.

By unanimous agreement, the arbitration committee found for the buyer, Cargill Inc. Therefore, the committee orders the Defendant, Williams Grain Company, to pay the Plaintiff, Cargill Inc., the amount of \$10,741.66 and denies Williams Grain Company's claim of \$7,243.19 against Cargill Inc. Submitted with the consent and approval of the arbitration committee, whose names are listed below:

Christopher Parrott, Chairman
Cook Industries Inc., Memphis, Tennessee

Terrence Fleming
B & W Co-op Inc., Breckenridge, Michigan

Herbert Koelsch
New England Feed Trading Company Braintree, Massachusetts