



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

July 17, 1979

Arbitration Case Number 1548

Plaintiff: Harvey's Peanut Company, Inc.

Defendant: Bunge Corporation

Claim: \$3,468.90

Statement of Case

Harvey's Peanut Co., Inc. sold Bunge Corp., thru broker, Edward E. Smith & Co., five multi car shipments of No. 2 Yellow Corn (approximately 10,000 bushels each) @ 13 under Chi Sept. for August shipment. Contract stated "No crotalaria." Contract was dated May 6, 1977, and Bunge also confirmed on that date showing buyer's equipment and crotalaria free.

Bunge then sold the contracted corn to McCoy Farm Service, who in turn sold it to Cargill, Inc., who sold it to Fred Webb, Inc., who ultimately sold it to Ralston Purina for delivery in Lumber City, Georgia.

Upon arrival at Lumber City, Ga., Ralston Purina tested for Aflatoxin. It was completed on August 29, 1977 and found that the corn contained in excess of 20 ppb of Aflatoxin on official analysis:

UTCX45636	32 ppb Aflatoxin
UTCX45609	38 ppb Aflatoxin
UTCX45640	42 ppb Aflatoxin

As the corn did not conform to contract it was rejected in accordance with grain rule 16(a). The ultimate buyer notified Bunge and Bunge's Traffic Manager, Robert E. Newborn, in a sworn statement, telephoned Edward E. Smith & Co., Harvey's Peanut Company's broker, who ordered the cars back to Leary, Ga. The bill of lading for return shipment was dated August 30, 1977.

A seller has a legal and contractual obligation to deliver a product that is not only cool and merchantable but also one that under normal course of events would not be condemned by Pure Food and Drug authorities. This grain in fact was subject to total confiscation by Food and Drug.

Rule 16(a) in the opinion of the Committee, applied due to the presence of a poisonous and deleterious substance, (Aflatoxin).

Award

The Committee is satisfied that the Defendant properly rejected the corn and therefore finds in favor of the defendant (Bunge Corp.) and rules that the Plaintiff must absorb the freight and detention charges (\$3,468.90).

/s/ Herbert F. Koelsch, Chairman New England Feed Trading Co. Falmouth, Massachusetts	/s/ Paul C. Hughes Farmers Soybean Corp. Blytheville, Arkansas	/s/ Terrence Fleming St. Johns Cooperative St. Johns, Michigan
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Decision of Arbitration Appeals Committee

Arbitration Case Number 1548

Plaintiff: Harvey's Peanut Company, Inc.

Defendant: Bunge Corporation

The Arbitration Appeals Committee considered the evidence as presented to the Arbitration Committee and reviewed the findings and conclusions of that Committee.

The Committee was unanimous in its affirmation of the decision of the Arbitration Committee that found in favor of the defendant, Bunge Corporation, and ruled that the plaintiff must absorb the freight and detention charges. (\$3,468.90)

/s/ James Donnelly, Chairman R.F. Cunningham & Co., Inc. Melville, New York	/s/ Charles H. Holmquist Holmquist Elevator Co. Omaha, Nebraska
/s/ W.C. Theis Simonds-Shields-Theis Grain Co. Kansas City, Missouri	/s/ Bruce Cottier Bartlett and Co. Kansas City, Missouri

/s/ Royce S. Ramsland
Quaker Oats Co.
Chicago, Illinois