



Arbitration Decision

National Grain and Feed Association

October 25, 1990

Arbitration Case Number 1670

Plaintiff: Harvey Kobobel, Wiggins, Colo.

Defendant: Scoular Grain Co., Fort Collins, Colo.

Statement of the Case

This case involved a claim by the plaintiff, Harvey Kobobel, against the defendant, Scoular Grain Co., concerning a \$15,000 partial prepayment against two contracts involving 10,000 bushels of corn, or a total of 20,000 bushels. Harvey Kobobel demanded a refund of the prepayment on the grounds that Scoular Grain Co. failed to deliver.

Scoular Grain Co. counter-claimed that it was due a prior debt of \$8,811. Scoular Grain Co. said that a third contract involving 15,000 bushels of corn also was made to Harvey Kobobel, and subsequently was canceled. Scoular Grain Co. demanded damages on the cancellation of the three corn contracts of \$8,274.

The Decision

In reviewing all of the documentation submitted in this case, the arbitrators unanimously determined the following:

■ That insufficient documented evidence was submitted to determine whether payment had been made on the prior debt claim by Scoular Grain Co. The committee found for the plaintiff on this claim.

■ That all evidence submitted demonstrated that no shipment was made on all three contracts. The arbitrators considered all contracts canceled by the plaintiff's attorney's letter of Aug. 21, 1989.

■ That Harvey Kobobel defaulted on all three contracts by failing to prepay in full at least one of the contracts and that, in accordance with NGFA Grain Trade Rule 10 "Incomplete Shipment or Delivery" the contract should be canceled at the fair market value. The fair market value figure claimed by Scoular Grain Co. was 23.64 cents per bushel, which was not disputed by Harvey Kobobel. The fair market value figure was researched by the arbitrators by comparing contract prices with September and December futures on the contract dates and cancellation dates, and was

Cash vs. Futures Comparison

	Cash Contract	September Futures	December Futures
Mar 31, 1989 15,000 bushels	\$2.74 1/2	\$2.62 1/4	\$2.57 3/4
Apr 3, 1989 10,000 bushels	2.71 1/2	2.58 1/2	2.55 3/4
Apr 6, 1989 10,000 bushels	2.74 1/2	2.61 3/4	2.60 1/4
Average Price (per bushel)		\$2.60 3/4	\$2.58
Aug 21, 1989		2.34 1/2 - 2.35	2.36 - 2.37 1/4
Difference (per bushel)		26 cents	21 1/4 cents

found to be accurate and reasonable (as depicted in the chart on page 1).

The Award

The arbitrators decided that Harvey Kobobel should be refunded the advance payment of \$15,000, less the cost of bringing the canceled contracts to market, minus 35,000 bushels at 23.64 cents per bushel, amounting to \$8,274. The balance of \$6,726 was awarded to Harvey Kobobel, plus 8 percent interest on \$6,726 from Aug. 21, 1989 to the date of payment.

Submitted with the consent and approval of the arbitration committee, whose names are listed below:

James Jordan, chairman
Union Equity Cooperative Exchange
Kansas City, Mo.

Dave Duncan
Metamora Elevator Co.
Metamora, Ohio

Rick Robinette
McMaster Grain Co.
South Sioux City, Neb.