



National Grain and Feed Association

Arbitration Decision

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October 7, 2010

Arbitration Appeals Case Number 2210

Plaintiff: Ceres Organic Harvest Inc., Minneapolis, Minn.

Defendant: West Plains Co./West Plains Grain Inc., Omaha, Neb.

The Decision

This case was decided by the original arbitration committee in the favor of Ceres Organic Harvest, Inc. (Ceres) against West Plains Co. and West Plains Grain Inc. (West Plains). West Plains subsequently appealed the decision and also requested oral arguments before this Arbitration Appeals Committee.

The Arbitration Appeals Committee then, individually and collectively, reviewed all the arguments and supporting exhibits presented by the parties in Arbitration Case Number 2210, along with the findings and conclusions of the original arbitrators. The Appeals Committee further reviewed the briefs of the appellant and appellee filed in this case, and also convened to hear the presentation of oral arguments by the parties.

The statement of the case as presented by the original arbitration committee detailed the essential facts of the case. The essence of this case was whether a contract existed between Ceres and West Plains. The actions of both parties prior and subsequent to the trade showed that a “meeting of the

minds” existed, despite poor contract confirmation procedures by both parties.

A significant argument in the appeal questioned whether the last sentence of NGFA Grain Trade Rule 5(B) regarding “email” would overrule the parties’ actions to the contrary. Grain Trade Rule 5(B), in relevant part, states:

“ . . . A party to a trade may, in lieu of written documents, transmit or receive from the other party an email, and such email shall substitute for a written document provided that the parties have previously so agreed.”

The Arbitration Appeals Committee concluded that in this case, the parties’ actions did, in fact, demonstrate through repetition an agreement to utilize email exchanges in the course of their business dealings.

The weight of the evidence and arguments showed that a contract was made, defaulted upon, and bought-in as remedy.

The Award

The Arbitration Appeals Committee confirmed the decision of the original Arbitration Committee.

Submitted with the unanimous consent of the arbitrators, whose names appear below:

Roger Krueger, Chair
Vice President, Grain Marketing
South Dakota Wheat Growers Association
Aberdeen, S.D.

James Banachowski

Director of Commodity Trading
The Andersons Inc.
Maumee, Ohio

Steve Campbell

Vice President
Louis Dreyfus Commodities
Kansas City, Mo.

Jeffrey Edwards

Vice President
J&J Commodities (A Division of Abbitt's Inc.)
Greenville, N.C.

Steven Nail

President and CEO
Farmers Grain Terminal Inc.
Greenville, Miss.