



National Grain and Feed Association Arbitration Decision

www.ngfa.org | www.ngfa.org/decisions

1400 Crystal Drive, Suite 260
Arlington, VA 22202

P: (202) 289-0873
F: (202) 289-5388

October 20, 2023

CASE NUMBER 3076

PLAINTIFF: AGREX, INC., BOWLING GREEN, OH

DEFENDANT: OSCAR HAMILTON, DBA HAMILTON FARMS, FLORALA, AL

FACTUAL AND PROCEDURAL BACKGROUND

The plaintiff, Agrex, Inc. (Agrex) requested the entry of a default judgment in the amount of \$114,620 against the defendant, Oscar Hamilton, dba Hamilton Farms. The default judgment is granted for the reasons set forth below.

Agrex submitted an arbitration complaint dated September 29, 2022, to the National Grain and Feed Association (NGFA). The complaint alleged that Hamilton failed to perform on contracts 21429, 24179 and 24233 for yellow corn.

The contracts were duly executed by both parties. The contracts stated “This same is made subject to the trade and arbitration rules of the National Grain and Feed Association.”

The contracts further stated under paragraph 2 of the “Terms and Conditions” as follows:

NGFA® TRADE RULES AND ARBITRATION TO APPLY. Except as otherwise provided herein, this Contract shall be subject to the Trade Rules of the National Grain and Feed Association (NGFA), which are incorporated herein by reference. The parties agree that the sole remedy for resolution of any and all disagreements or disputes arising under or related to this Contract (including, but not limited to, any statutory or tort claims arising from the relationship of the parties) shall be through arbitration proceedings before the NGFA pursuant to the NGFA® Arbitration Rules. The decision and award determined through such arbitration shall be final and binding upon the parties. Judgment before the arbitration award may be entered and enforced in any court or tribunal having jurisdiction thereof. (Copies of the NGFA® Trade Rules and Arbitration Rules are available upon request and also from the NGFA: Telephone: 202-289-0873; Website: <http://www.ngfa.org>). The parties agree that any arbitration conducted hereunder shall be governed by the Federal Arbitration Act, 9 United States Code §§ 1-16, as now existing or hereinafter amended.

Acting upon Agrex’s complaint, NGFA prepared an arbitration services contract and submitted it to Agrex for execution. By Federal Express dated October 14, 2022, NGFA also sent to Hamilton a letter providing notice of these proceedings with copies of Agrex’s complaint and attachments, as well as the NGFA Trade Rules and Arbitration Rules. Federal Express confirmed that this mailing to Hamilton was delivered on October 18, 2022.

Upon receipt of the duly executed arbitration services contract from Agrex, NGFA then sent it with accompanying correspondence to Hamilton by Federal Express on October 28, 2022. Federal Express confirmed that this mailing to Hamilton was delivered on October 31, 2022.

After not hearing further from Hamilton, on January 20, 2023, NGFA sent to Hamilton another letter by Federal Express. Federal Express confirmed this mailing was delivered on January 31, 2023. NGFA's letters of October 28, 2022 and January 20, 2023, to Hamilton specifically provided notice that Rule 2(E) of the NGFA Arbitration Rules required that the signed contract be returned within fifteen (15) days.

On February 22, 2023, Hamilton contacted NGFA by telephone inquiring about the arbitration process. As a courtesy, NGFA resent all previous correspondence in this case by Federal Express on March 20, 2023. Federal Express confirmed this mailing to Hamilton was delivered on March 22, 2023.

After not receiving any further response from Hamilton or any indication that such a response was forthcoming, NGFA sent yet another notice to Hamilton on May 19, 2023, by Federal Express. This notice further stated specifically as follows:

NGFA Arbitration Rules 2(D) and (E) provide for the entry of a default judgment when a party fails to execute the arbitration contract and pay the service fee within fifteen (15) days. Based upon the lack of any further response from you, we must anticipate that you do not intend to respond. ***This is our last attempt to elicit a response from you. A default judgment may be entered against you at any time, which the Plaintiff may enforce in a court of law.*** [Emphasis in original].

Federal Express confirmed that this mailing was delivered to Hamilton on May 24, 2023.

On May 24, 2023, Hamilton contacted NGFA by telephone again and requested all previous correspondence be sent again.

As a further courtesy, NGFA again resent all previous correspondence in this case by Federal Express on June 9, 2023. Federal Express confirmed this mailing to Hamilton was delivered on June 12, 2023.

NGFA has yet to receive an executed arbitration services contract or hear further from Hamilton, despite the repeated attempts by NGFA to contact Hamilton.

DEFAULT JUDGMENT

NGFA established jurisdiction over this matter pursuant to the express terms of the contract and by way of Agrex's status as an NGFA active member.

Agrex properly and in a timely manner filed its complaint under NGFA Arbitration Rule 2(A). Pursuant to Rule 2(B), NGFA then submitted an arbitration services contract to the parties. Rule 2(D) states that, "Each party must return the completed arbitration services contract within 15 days from the date the party receives it from the NGFA Secretary." Agrex properly executed and returned the arbitration services contract. Hamilton refused to comply with the NGFA Arbitration Rules and refused to participate in the NGFA arbitration process.

NGFA Arbitration Rule 2(E) provides for the following:

Where a party fails to execute the arbitration services contract or pay the arbitration services fee, the NGFA Secretary may without further submissions by the parties enter a default judgment or such other relief as the NGFA Secretary deems appropriate.

As it appears that Hamilton made a conscious decision to disregard these arbitration proceedings, pursuant to Rule 2(E) of the NGFA Arbitration Rules, the NGFA Secretary finds that entry of default judgment against Hamilton is proper and warranted.

NGFA Arbitration Rule 2(E) also sets forth the requirements and conditions under which, “[a]ny party against whom a default judgment has been entered may apply to vacate the default judgment within 15 days of entry of the default judgment.” Further, NGFA Arbitration Rule 7 provides that a default judgment issued by the NGFA Secretary shall be final unless properly and timely appealed by either party.

THE AWARD

THEREFORE, IT IS ORDERED THAT:

1. Agrex, Inc. is awarded judgment against Oscar Hamilton, dba Hamilton Farms for \$114,620.00.
2. Interest on the judgment shall accrue at the statutory rate available for judgments in the applicable jurisdiction from this date until paid in full. This award is not intended to preclude the plaintiff from pursuing an additional award for interest, legal fees or costs in a court of law.

Dated: September 15, 2023*

NATIONAL GRAIN AND FEED ASSOCIATION

By: Charles M. Delacruz
NGFA Secretary

* On September 15, 2023, NGFA entered the default judgment against the defendant. The defendant was advised regarding the procedures for applying to vacate the default judgment, but the defendant did not apply to vacate the default judgment.