



National Grain and Feed Association Arbitration Decision

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September 23, 2026

CASE NUMBER 3112

PLAINTIFF: LUCKEY FARMERS, INC., IDA, MICHIGAN

DEFENDANT: GLENN BERRY, STERLING, MICHIGAN

STATEMENT OF THE CASE

The plaintiff in this case is Luckey Farmers, Inc. (“Luckey”) (as successor-in-interest to IDA Farmers Cooperative (“IDA Farmers”), a cooperative in Ida, Michigan. The defendant is Glenn Berry (“Berry”), a farmer in Sterling, Michigan. The contracts in dispute were between IDA Farmers and Berry when written. On March 25, 2021, IDA Farmers sent a letter to Berry indicating several contracts were being assigned to Luckey. Berry did not object to the contract assignments. Berry’s wife, on behalf of Berry, signed the Pricing Addendums with Luckey. The grain merchandiser primarily involved in the case was originally employed by IDA Farmers and then employed by Luckey.

The contracts/transactions involved in this dispute were as follows:

1) Contract 11114/Assigned Contract 49233 – June 30, 2020

- 10,000 bushels of corn
- Delivery: September 25 – November 30, 2021
- Contained AgriVisor pricing program addendum that could result in the doubling of deliverable bushels from 10,000 to 20,000 bushels if certain market pricing points were triggered.
- Berry executed and delivered the confirmation.
- Rolled several times for a final delivery date of November 30, 2022.

2) Contract 11218/Assigned Contract 50372 – September 14, 2022

- 2,500 bushels of soybeans
- Delivery: September 15 – November 30, 2021
- Contained AgriVisor pricing program addendum that could result in the doubling of deliverable bushels from 10,000 to 20,000 bushels if certain market pricing points were triggered.

- Berry executed and delivered the confirmation.
- After several rolls, the delivery date for the final 1,000 bushels was October 31, 2022.

3) Contract 49098 – October 22, 2021

- Initial 2,500 bushels of soybeans, which was doubled to 5,000 bushels of soybeans.
- Rolled several times for final delivery date of February 28, 2023.

4) Contract 49247 – November 26, 2021

- Initial 3,000 bushels of corn, which was doubled to 6,000 bushels of corn.
- Rolled several times for final delivery date of November 30, 2022.

Luckey claims that Berry failed to deliver on the outstanding grain contracts. Luckey's claimed damages are in the amount of \$142,012.50; plus \$2,130.19 for arbitration service fees and interest on the arbitration award from March 14, 2023, at the rate of 7.75% per annum.

The sequence of events leading up to this dispute were as follows:

- September 17, 2021 – Luckey sent to Berry a letter listing his open contracts.
- September 30, 2022 – Berry sent to Luckey a letter stating Berry believed those contracts with Luckey were not valid.
- Luckey requested Berry provide adequate assurances of performance by October 14, 2022.
- October 12, 2022 – Berry denied the existence of the remaining open grain contracts.
- October 18, 2022 – Luckey sent to Berry a letter explaining the open contracts.
- October 22, 2022 – Berry responded again failing to provide adequate assurances.
- November 3, 2022 – Luckey made a last request for adequate assurances from Berry to be provided by November 11, 2022.
- November 14, 2022 – After receiving no response from Berry, Luckey cancelled Berry's grain contracts and invoiced Berry \$142,012.50 for damages associated with the cancelled contracts.

The arguments and defenses presented by Berry were as follows:

- Neither IDA Farmers nor Berry themselves understood the complex hedge-to-arrive accumulator contracts. The plaintiff's own grain merchandiser explained he did not know how the contracts worked.
- IDA Farmers did not incorporate all material terms into the contracts and instead referred to AgriVisor documents that were neither included nor provided to Berry. The grain merchandiser testified in a deposition that Berry did not have to worry about the double-up as it was just a new pricing program. Luckey has not provided the complete contracts to Berry or NGFA.

- The grain merchandiser testified in his deposition, *“my explanation to the farmers was, being that there is unknowns, we’re not gonna hold your feet to the fire on a lot of these; we will work through situations if they become – if something arises.”*
- Luckey cannot enforce its modified contracts because Berry never agreed to modify them, including at Luckey’s new prices and quantities.
- IDA Farmers subsequently sent the “Pricing Addenda” for the contracts. The addenda referred to AgriVisor for the following definition:

All terms not defined herein have the meaning determined by AgriVisor with respect to the relevant Program, and the Contract and this addendum remain subject to other terms, conditions and requirements established by AgriVisor from time to time, in its sole discretion.

- IDA Farmers never provided the AgriVisor terms to Berry because IDA Farmers did not have them.
- Even if Luckey could enforce its contracts, NGFA should refuse to because doing so would be “unconscionable.”
- NGFA should rescind the contracts because Luckey, through its grain merchandiser, improperly induced Berry.

THE DECISION

The arbitration committee concluded that the accumulator contracts may have been essentially fair, but the communications between the parties and the evidence presented in this case demonstrated significant ambiguity and vagueness in the execution of these transactions. The contracts in this dispute followed the general customs of the trade as well as prior practice between the parties. However, the committee determined that the inability of IDA Farmers to explain the AgriVisor Program; the grain merchandiser’s assurances to Berry that IDA Farmers would work with Berry on the double up clause; and that Berry was not provided with the AgriVisor terms at the time of execution of the contracts indicate ambiguity surrounding these contracts. In the deposition provided in evidence, the grain merchandiser cannot clearly explain the contract terms.

The merchandiser also goes on to state:

There was a lot of unknowns probably on our end as well at Ida. And my explanation to the farmers was, being that there is unknowns, we’re not gonna hold your feet to the fire on a lot of these; we will work through situations if the become – if something arises (leaving the contract terms up in the air).”

The committee notes that Berry did deliver some of his grain against these contracts to locations in Michigan, thereby confirming his acceptance of the contracts, and Berry signed the contracts in dispute.

The committee unanimously concludes that Luckey is 75% at fault and Berry is 25% at fault for the lack of execution on these contracts. As the total claimed damages are in the amount of \$142,012.50, Berry owes to Luckey in the amount of \$35,503.13.

THE AWARD

The arbitrators awarded \$35,503.13 to Luckey Farmers, Inc. from Glenn Berry.

No interest or legal fees are awarded.

Decided: April 10, 2025

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

Bruce Weber, *Chair*
Senior Trader
CHS
Inver Grove Heights, MN

Katelyn Schwiderski
Staff Attorney
GROWMARK Inc.
Bloomington, IL

Hayden Sholtis
Senior Trader
ADM
Decatur, IL



September 23, 2026

ARBITRATION APPEAL CASE NUMBER 3112

Appellant/Defendant: **Luckey Farmers, Inc., Ida, Michigan**

Appellee/Plaintiff: **Glenn Berry, Sterling, Michigan**

DECISION OF THE APPEALS COMMITTEE

Arbitration Case 3112 was filed by Luckey Farmers, Inc. (Luckey) against Glenn Berry (Berry) for failure to deliver 26,000 bushels of Corn and 6,000 bushels of Soybeans that were initially contracted for delivery during Fall 2021. Luckey seeks \$142,012.50 in damages from Berry for default on the contracted quantities of Corn and Soybeans.

The original three-member Arbitration Committee unanimously agreed that Luckey was justified in cancelling the contracts after making repeated attempts to confirm whether Berry was going to deliver on his contractual commitments.

The Arbitration Appeals Committee, both individually and collectively, reviewed all the arguments and supporting documents provided in the record of the case for Arbitration Case 3112, which includes the findings and conclusions reached by the original Arbitration Committee.¹ The Arbitration Appeals Committee further reviewed the briefs of the appellant and the appellee submitted in the appeal.

As stated in the Preamble of the National Grain and Feed Association's Grain Trade Rules:

The following rules shall govern all transactions of a financial, mercantile, or commercial character connected with grains and oilseeds arising between Active members of the National Grain and Feed Association and other parties using these rules unless otherwise and specifically agreed to at the time of the trade or subsequent thereto.

¹ The original Arbitration Committee's written decision appears to contain typographical errors. The decision states, "2) Contract 11218/Assigned Contract 50372 – September 14, 2022." The correct contract formation date referenced and relied upon by both the original Arbitration Committee and Appeals Committee should have been September 14, 2020.

"Contained AgriVisor pricing program addendum that could result in the doubling of the deliverable bushels from 10,000 to 20,000 bushels if certain marketing points were triggered." The correct bushels referenced and relied upon by both the original Arbitration Committee and Appeals Committee should have been 2,500 to 5,000 bushels.

All Active members and other parties using these rules are free to agree upon any contractual provisions, which they deem appropriate, and these rules apply only to the extent that the parties to the contract have not altered the terms of the rules, or the contract is silent as to the matter dealt with the pertinent rule. [Emphasis added]

As detailed by the original Arbitration Committee, Berry initially entered into contracts for Corn and Soybeans with Ida Farmers Co-Operative (IDA). These contracts also contained an AgriVisor pricing addendum feature, more commonly known within the trade as an accumulator contract. Berry signed, or his wife signed on Berry's behalf, the IDA contracts and the AgriVisor pricing addendum. As part of IDA's contract under Terms and Conditions:

This Contract shall be governed by the laws of the state of Michigan and shall be binding on Seller's estate, executors, administrators, successors, and assigns and shall inure to the benefit of the Buyer, its successors and assigns.

IDA sent a detailed letter to Berry on March 25, 2021, which explained that IDA's merchandiser had left employment with IDA, and IDA was assigning the contracts it had formed with Berry to Luckey, as was IDA's right. IDA included Contract Amendments that clearly detailed the contracts formed with Berry were "TRANSFER TO LUCKEY." There was nothing presented in the Record of the Case that indicated Berry objected to this assignment.

Common among accumulator contracts, Berry received a higher price per bushel on his initial contract than he would have received without the addition of the accumulator feature. If certain defined price points were reached, an additional contract would be formed between the Buyer and Seller in which the original quantity contracted would double at the referenced bushel price. Conversely, if those defined price points were not reached, Berry would not have any additional bushel obligation while benefitting from the higher per bushel price he received on the original quantity.

Berry claims that IDA did not provide to him the AgriVisor Pricing Addendum. This is inaccurate. Berry signed the Soybean AgriVisor Pricing Addendum provided by IDA on September 19, 2020, that contained an end date of October 22, 2021. Berry also signed the Corn AgriVisor Pricing Addendum provided by IDA on November 5, 2020, with an end date of November 26, 2021. After the Pricing Addendum was transferred to Luckey, Luckey sent both the Corn and Soybean Addendums to Berry which were signed by Berry's wife. At the end date of both Addendums (specifically for the Soybeans October 22, 2021, and for the Corn November 26, 2021), the quantity offered by Berry in the Pricing Addendums was executed when the futures price was higher than the Target Price, and Purchase contracts were issued by Luckey. Berry acknowledged receipt of the executed Accumulator Pricing addendum in his letter to Luckey of October 12, 2022, which stated:

These contracts were first written by IDA Farmers Coop in June 2020 and transferred to Luckey Farmers in February or March 2021. The next documents we received were issued in November 2021 from Luckey Farmers.

Berry's claims questioning the contract's existence are without merit.

As detailed in the written decision of the Arbitration Committee, there were multiple written correspondences between Luckey and Berry in the fall of 2022. Luckey asked Berry to provide assurances that he was going to deliver on his contractual obligations and Berry indicated that he believed that no contracts existed. Luckey set a final deadline for Berry to respond by November 11, 2022. Berry offered no indication that he was going to deliver grain to fulfill the contracts. Luckey cancelled the defaulted portion of the contracts the following business day, November 14, 2022, as called for in NGFA Grain Trade Rule 28. Failure to Perform (A)(3) Seller's Non-Performance: *"(3) cancel the defaulted portion of the contract at fair market value based on the close of the market the next business day."*)

The Arbitration Appeals Committee unanimously agreed that contracts were formed between Luckey Farmers and Glenn Berry, both the initial purchase contracts and the additional quantities clearly defined in the AgriVisor Pricing Addendum if certain price levels were met. Berry's decision to accept that potential exposure; to sell the initial quantity at a higher price than he would normally receive provided he made an offer for an additional quantity being sold if certain defined price levels were met, was his alone. If he wanted to avoid that potential additional bushel commitment, he should not have agreed to enter into an accumulator marketing strategy.

For these reasons, the Arbitration Appeals Committee did not reach the same conclusion as the original Arbitration Committee which reduced Luckey's damages by 75%.

Damages attributed to the cancelled contracts are listed below:

Contract Date	Contract Number	Commodity	Bushel	Delivery Period	Original Futures Reference Price	Changes to Original Futures Price (Net of Rolls and Fees)	Net Final Futures Reference Price	Referenced Futures Closing Price Nov. 14, 2022	Market Difference per Bushels	Total Dollars (Bushels X Market Difference)
11/26/2021	49233	Corn	20,000.00	Sept. 1 – Nov. 30, 2022	\$4.0400	\$(0.9875)	\$3.0525	\$6.5725	\$(3.5200)	\$(70,400.00)
11/26/2021	49247	Corn	6,000.00	Sept. 1 – Nov. 30, 2022	4.0400	(0.9875)	3.0525	6.5725	(3.5200)	(21,120.00)
10/22/2021	49098	Soybeans	5,000.00	Sept. 1 – Feb. 28, 2023	9.5000	(2.9350)	6.5650	14.4175	(7.8525)	(39,262.50)
10/22/2021	50372	Soybeans	1,000.00	Sept. 1 – Oct. 31, 2022	9.5000	(2.9625)	6.5375	14.4175	(7.8800)	(7,880.00)
Net Due (From) Berry:										\$(138,662.50)

AWARD

The Arbitration Appeals Committee, by unanimous decision awards Luckey Farmers, Inc. \$138,662.50 from Glenn Berry. Luckey's claim for contract cancellation charges is denied since it was not addressed on the contract confirmation. No interest or legal fees are awarded.

Decided: August 4, 2026

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

Jay Mathews, *Chair*
CEO
Prairieview Grain Trading
Champaign, IL

Charles Elsea
Chief Strategy Officer
The Redwood Group, LLC
Salina, KS

Edward Milbank
President
Milbank Mills Inc.
Chillicothe, MO

Ben Baer
President
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Craig Haugaard
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