

# Arbitration Decisions

ARBITRATION CASE NO. 1483

March 25, 1954

PLAINTIFF: Marco Mills, Inc., Joplin, Mo.

DEFENDANT: Buhler Mill &amp; Elev. Co., Buhler, Kansas

COMMODITY: Gray Shorts

The Arbitration Committee of this National Association, made up of Clark King, M. D. King Milling Co., Pittsfield, Ill.; H. Mark Griffin, International Milling Co., P. O. Box 36, Commerce Station, Minneapolis, Minn.; and R. F. Gunkelman, Sr., R. F. Gunkelman and Sons, Fargo, N. Dakota, wishes unanimously to make the following report:

Both the Defendant and the Plaintiff admit that they failed to check the other party's confirmation as is required by Feed Trade Rule 2(a) of the Grain & Feed Dealers National Association. The Defendant did not check the broker's confirmation as is required by Rule 2(b). This puts the heaviest responsibility on Defendant (Buhler) because the broker's confirmation agreed with the Plaintiff's (Marco);

However, there would always be the question of "bad faith" if no responsibility is placed on Marco, the Plaintiff, to have checked Buhler's confirmation. He could have intentionally let it slide, depending on the trade rules to enforce the delivery of gray shorts. We would, therefore, say that there is some responsibility placed on Marco. This committee, therefore, agrees that the loss should be divided, 1/3 to Marco and 2/3 to Buhler. Buhler is claiming a loss of \$339.00. Buhler has listed in their letter of September 28th, contracts on which they bought in gray shorts. Here is the Southwestern Miller cards for the dates shown:

DATE	Burlaps K. C.	Freight K. C. to Joplin	Burlaps Joplin	Loss or gains compared to \$44 sale price	Extended loss or gain
8/24	44.00¢	1.80 =	45.80	1.80	54.00
8/28	44.50¢	1.80 =	46.30	2.30	69.00
9/4	44.00¢	1.80 =	45.80	1.80	54.00
9/11	43.25¢	1.80 =	45.05	1.05	31.50
9/15	42.00¢	1.80 =	43.80	-.20	-6.00
Total					\$202.50

You will note this total is \$202.50, which is \$136.50 less than the amount the Plaintiff is claiming. The biggest loss is in the purchase of August 24th. Marco should support this set of purchases with a copy of the confirmation of sale from each of the principals involved, and they should explain why the price of August 24th is so high. However, they have not submitted sufficient evidence supporting this loss and we must, therefore, award the Plaintiff two-thirds (2/3) of the total loss as itemized above; this amount is \$135.00. We trust that our findings will be acceptable to both Plaintiff and Defendant, as we believe a settlement on this basis is fair and equitable.