



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

July 30, 1980

Arbitration Case Number 1552

Plaintiff: W. W. Hill Feed & Grain Company

Defendant: Tabor Grain Co., a subsidiary of
Archer-Daniels-Midland Company

Claim: \$9,630.00

Statement of the Case

On July 11, 1978, Tabor Grain Co. entered into two contracts with W.W. Hill Feed & Grain: one for 15,000 bushels of #1 yellow soybeans at \$6.10½ for December 23, 1978 to January 23, 1979 shipment. The other was for 15,000 bushels of #1 yellow soybeans at \$5.93½ for September-October-November shipment. On August 18, 1978 a third contract was entered into for 3,000 bushels of #1 yellow soybeans at 6.16 for September-October-November shipment.

On September 22, 1978, Tabor sent three debit memorandums to W.W. Hill totaling \$9,630.00 indicating the contract had been cancelled and the market difference was due Tabor. This cash difference was deducted from the returns of old crop soybeans delivered earlier in September.

Decision

The Arbitration Committee finds that these trades were unilaterally cancelled by Tabor and that at least two trade rules were violated. Trade Rule Number 8 which says in part, "grain to apply on a sale for shipment must be actually loaded and billed within the life of the contract".

Comment: The contract was cancelled before the shipper, Hill, had a chance to perform on new crop beans.

Trade Rule 11 provides a procedure to be followed in the event a contract is unable to be fulfilled within an agreed time period. This procedure was not followed. In addition, there was no evidence of an incomplete delivery. If there were a question of Hill's ability to perform, it should have been explored thoroughly between the parties.

Trade Rule 41 which states, "the specifications of a contract cannot be altered or amended without the express consent of both the buyer and the seller. Any alteration mutually agreed upon between buyer and seller must be immediately confirmed by both in writing".

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Comment: The Committee found that there was no "meeting of the minds" concerning the cancellation of those contracts. Both parties did not agree to cancellation in that it was the unilateral action of the buyer. Secondly, there was no confirmation by either party in writing stating that an alteration in the contract had been agreed to. There was no default in the contract in that the shipment period had not expired.

Award

The Committee therefore found in favor of the Plaintiff, W.W. Hill Feed & Grain Company and awarded Hill the market difference which was deducted from his old crop cash returns, namely \$9,630.

/s/ Rupert G. Quinn, Chairman Benson-Quinn Company Minneapolis, Minnesota	/s/ John McCulley Oakville Feed & Grain, Inc. Oakville, Iowa	/s/ Robert Wilson Bunge Corporation St. Louis, Missouri
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Decision of Arbitration Appeals Committee

Arbitration Case Number 1552

Plaintiff: W.W. Hill Feed & Grain Company

Defendant: Tabor Grain Co., a subsidiary of
Archer-Daniels-Midland Company

The Arbitration Appeals Committee considered the evidence as presented to the Arbitration Committee and reviewed the findings and conclusions of that Committee dated October 5, 1979.

The Committee was unanimous in its affirmation of the decision of the Arbitration Committee that the defendant, Tabor Grain Co., unilaterally cancelled the contracts, and that the plaintiff, W.W. Hill Feed & Grain Company, be awarded the \$9,630 recommended by the Arbitration Committee.

/s/ Royce Ramsland, Acting Chairman Quaker Oats Co. Chicago, Illinois	/s/ Charles Holmquist Holmquist Elevator Co. Omaha, Nebraska
/s/ Clayton Johnson Mid-States Terminals, Inc. Toledo, Ohio	/s/ R.T. Creekmore Indiana Grain Queen City Elevator Cincinnati, Ohio
/s/ Richard Goldberg Goldberg Feed & Grain Co., Inc. West Fargo, North Dakota	