



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

February 11, 1983

Arbitration Case Number 1582

Plaintiff: Albert City Elevator, Albert City, Iowa

Defendant: Far-Mar-Co Inc., Kansas City, Missouri

Statement of Case

In Arbitration Case Number 1582, the Plaintiff, Albert City Elevator, sold 500,000 bushels of corn to the Defendant, Far-Mar-Co Inc., for shipment in November 1981 to the Gulf.

On November 3, 1981, at approximately 9 a.m., the Plaintiff notified the Defendant that it had a 75-car train ready for billing on the contract.

The Plaintiff did not receive billing from the Defendant by 4 p.m. Central Standard Time on November 3, 1981. At that time, the Plaintiff sent a wire to the Defendant, putting it on notice.

On November 5, 1981, at 8:30 a.m., the Plaintiff received billing from the Defendant.

The Plaintiff claimed damages from the Defendant of \$630.29 for two days of interest and \$2,250 for two days of rail car rental cost.

The Defendant claimed that the delay for billing was caused by parties that were in the chain of billing, and not the Defendant. The Defendant also claimed that, according to Grain Trade Rule 7, Rail Billing Instructions, the Plaintiff had three options which it could have exercised, and asserted that the Plaintiff exercised none of these options.

The Decision

The facts presented by both sides showed that the Plaintiff and the Defendant agreed that billing was not given until two days after the contract billing time had expired.

It is the responsibility of the buyer to furnish billing in the prescribed time, as set forth in Grain Trade Rule 7.

The arbitration committee ruled in favor of the Plaintiff in the amount of the interest costs of \$630.29, plus car cost of \$2,250. Total damage awarded: \$2,880.29.

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Marvin R. Rau, Chairman
Tabor Grain Company, Decatur, Illinois

Raymond L. Ortman
Kokomo Grain Company Inc., Kokomo, Indiana

R.W. Obrock
Landmark Inc., Columbus, Ohio

Arbitration Case Number 1582

Decision of the Arbitration Appeals Committee

Appellant: Far-Mar-Co Inc., Kansas City, Missouri

Appellee: Albert City Elevator, Albert City, Iowa

The Arbitration Appeals Committee individually reviewed all written evidence submitted in Arbitration Case Number 1582 involving Far-Mar-Co Inc., Appellant, versus Albert City Elevator, Appellee. The findings and conclusions of the original arbitration committee were reviewed. In addition, an oral hearing was conducted December 14, 1982, and the entire Arbitration Appeals Committee heard the opening statement of the Appellant, the argument of the Appellee and the rebuttal of the Appellant. The committee also questioned both the Appellant and the Appellee.

It was the unanimous opinion of the Arbitration Appeals Committee to uphold the findings of the original arbitration committee, and to award the Appellee, Albert City Elevator, interest cost of \$630.29, plus car cost of \$2,250. Total damages awarded: \$2,880.29.

The Arbitration Appeals Committee reasoned that although the Appellee had three options under Grain Trade Rule 7, Rail Billing Instructions, these were not the exclusive options available under any and all circumstances. These options were the right of the Appellee, but not exclusively an obligation.

It also should be emphasized that it does not change the liability of buyer and seller in a contract because that contract may be part of a "string" trade.

James F. Donnelly, Chairman
R.F. Cunningham & Company Inc., Melville, New York

R.T. Creekmore
The Early & Daniel Company, Cincinnati, Ohio

Richard Goldberg
Goldberg Feed & Grain Company, West Fargo, North Dakota

Royce S. Ramsland
The Quaker Oats Company, Chicago, Illinois

W.C. Theis
Simonds-Shields-Theis Grain Company, Kansas City, Missouri