



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

January 23, 1986

Arbitration Case Number 1618 -- Parts 1 and 2

Plaintiff: Commodities Corp., Fort Wayne, Ind.

Defendant: Cargill Inc., Minneapolis, Minn.

Cross-Plaintiff: Cargill Inc., Minneapolis, Minn.

Cross-Defendant: The Pillsbury Co., Minneapolis, Minn.

This case concerned a claim for \$2,695.52 by Commodities Corp. against Cargill Inc. for a balance due on barge XL 162. This barge was loaded on May 20, 1983 by Pillsbury Co., tendered to Cargill Inc. It was retendered by Cargill Inc. to Commodities Corp., and subsequently unloaded by Bunge Corp. as party at the end of the string trade on June 2, 1983.

The official unload weight indicated approximately 280,000 pounds of damaged corn remained on the barge. This parcel of corn appeared to have been unloaded subsequently. On Oct. 28, 1983, Bunge wrote a letter to Pillsbury explaining its willingness to accept the damaged corn subject to assessment of certain discounts.

When Commodities Corp. received the debit note and attached letter written by Bunge through the string trade, it paid it and in turn debited Cargill. Cargill, in turn, debited Pillsbury, but was informed that there was no agreement with Bunge governing its acceptance of such a debit note. Pillsbury, therefore, declined to pay. Cargill, as the next entity in the string trade, took similar action.

Decision

According to Barge Trade Rule 10, "title as well as rule of loss and/or damage" passed to Bunge Corp. at the time of application. Furthermore, the added evidence presented did not indicate existence of an agreement between Pillsbury and Bunge covering payment of the disputed amount. The arbitrators, therefore, unanimously declined the claim of Commodities Corp.

The claims for refund of the arbitration charges by Cargill and Pillsbury were denied.

Submitted with the consent and approval of the arbitration panel, whose names are listed below:

Henry P. Fisher, Chairman
Continental Grain Co.
New York, N.Y.

J. Stephen Lucas
Louis Dreyfus Corp.
Stamford, Conn.

De Van C. Janssen
Consolidated Grain
and Barge Co.
St. Louis, Mo.