



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

January 19, 1989

Arbitration Case Number 1653

Plaintiff: J.R. Parker & Co. Inc., Providence Forge, Va.

Defendant: Cargill Inc., Minneapolis, Minn.

Statement of the Case

During the period of May-June 1987, J.R. Parker & Co. Inc. shipped 24 rail cars to Cargill Inc. at Chesapeake, Va., on a Commodity Credit Corporation loading order. Subsequently, seven cars were rejected to Parker because the presence of aflatoxin exceeded 20 parts per billion. The presence of aflatoxin was detected by the "quick card" test.

Subsequently, Parker had the contents of these cars tested by an independent laboratory and directed their contents into poultry channels. Two of these cars tested by an independent laboratory were found to contain more than 20 p.p.b. of aflatoxin; the other five contained less than 20 p.p.b. Parker sought damages resulting from the rejection of the cars.

The Decision

The arbitration panel found unanimously in favor of Cargill Inc. CCC grain cannot be rejected on the basis of house grades; but in the case of aflatoxin, the "quick card" test is a commonly used quick procedure to test for the presence of aflatoxin, which then can lead to further testing. With CCC, the further testing would have had to

have been on the basis of an official grade (that is, performed by FGIS or its approved agency).

Since official aflatoxin tests were available but not obtained, the independent lab's results were irrelevant. If, in fact, the contents of the cars had tested less than 20 p.p.b. on the basis of an official test, those cars would not have been rejectable. This process did not occur. As a result, there was no basis for a claim from those rejections.

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

Jerry J. Barre, chairman
Louis Dreyfus Corp.
Shawnee Mission, Kan.

Thomas R. Gilliam
Keystone Farm Service
Roxboro, N.C.

Elmer E. Short
SOFICO Inc.
Memphis, Tenn.