National Grain and Feed Association
Arbitration Decision
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February 16, 2024

CASE NUMBER 2962

PLAINTIFF: **PARRISH AND HEIMBECKER LTD.**
WINNIPEG, MANITOBA, CANADA

DEFENDANT: **COPPERHEAD FARMS LTD.**
BIGGAR, SASKATCHEWAN, CANADA

STATEMENT OF THE CASE

The Plaintiff, Parrish and Heimbecker (P&H), and the Defendant, Copperhead Farms LTD (Copperhead Farms), entered into three contracts: Contract 311433, dated January 18, 2021, for 272.16 metric tons (MT) of #2 Canada Yellow Peas for August 2021 delivery; Contract 309467, dated January 12, 2021, for 453.6 MT of #1 Canada Canola for September 2021 delivery; and Contract 310697, dated January 14, 2021, for 544.31 MT of #1 Canada Western Red Spring Wheat 13.0% protein for September 2021 delivery. All three of these contracts were "E-SIGNED" by Copperhead Farms and P&H.

At the end of July 2021, Copperhead Farms contacted P&H and expressed concerns about Copperhead Farms being short on its contracts. On August 11, 2021, representatives of P&H went to Copperhead Farms and noted that all its peas had been harvested. P&H suggested that Copperhead Farms deliver what it had on the peas contract and then cancel any remaining contract balance and pay out the negative equity. P&H also calculated some estimates of potential shortfalls for the canola and wheat contracts.

For the balance of August and into September 2021, P&H was in contact with Copperhead Farms with regard to the delivery of peas on contract 311433. While Copperhead Farms did deliver a portion of the contracted quantity, there was still an open balance by the end of September. It is the opinion of the arbitrators that, at this juncture, P&H could and should have demanded delivery of Copperhead Farms' peas and declared the contract in default, given that Copperhead Farms' peas were fully harvested as of August 11. Waiting until the end of November – three months after the peas had been harvested – to judge the contract to be in default was excessive, putting both the company and the producer at risk given the market circumstances. P&H provides Copperhead Farms buyout numbers for the peas contract on October 1, 2021, at $15.50 per bushel with a $10 per ton administration fee (per Exhibit 4A, #11 in P&H's first argument presented in this arbitration), and it is the opinion of the arbitrators that these buyout numbers should be used in determining the equity of the contract.

With regard to canola contract 309467, the arbitrators noted that P&H was in contact with Copperhead Farms several times by the end of September about delivery under the contract. On November 16, 2021, P&H sent a final notice to Copperhead Farms to deliver any remaining balance on the contract by Nov 30, 2021, or the contract would be deemed to be in default, and the contract would be bought-in on

December 1, 2021. On November 24, 2021, P&H sent a letter to Copperhead Farms stating that due to Copperhead Farms communicating its intent to not deliver the balance of this contract, that this contract was considered to be in default and that P&H was cancelling the balance of the contract and buying-in a like quantity to be charged to Copperhead Farms.

With regard to wheat contract 310697, the arbitrators noted that P&H was in contact with Copperhead Farms several times about delivery to occur by the end of September. On November 16, 2021, P&H sent a final notice to Copperhead Farms to deliver any remaining balance by November 30, 2021, the contract would be deemed to be in default, and that the contract would be bought-in on December 1, 2021. P&H's letter of November 24, 2021, to Copperhead Farms also stated that due to Copperhead Farms communicating its intent to not deliver the balance of this contract, that this contract was also considered to be in default and that P&H was cancelling the balance of the contract and buying-in a like quantity to be charged to Copperhead Farms.

THE DECISION

The arbitrators ruled in favor of P&H in that it is owed compensation for failure by Copperhead Farms to deliver all of the contracted quantity. In assessing damages, the arbitrators are using an adjusted time frame and price for the peas contract due to the excessive time between contracted time of shipment and contract cancellation, especially in light of market conditions. As for the canola and wheat contracts, the arbitrators determined the timelines and cancellation procedures to have been adequate

THE AWARD

Therefore, the arbitrators award the Plaintiff, Parrish and Heimbecker LTD, in the amount of CAD $353,795.78 based on the following calculations:

Contract	Open Quantity	Contract Price	Cancellation Price	Difference/MT	Cancellation Fee/MT	Total Cancellation Cost/MT	Total Due
311433	248.30	330.70	569.53	238.83	10.00	248.83	61,784.49
309467	453.6	529.11	1031.753	502.643	10.00	512.643	232,534.86
310697	258.077	257.21	477.67	220.46	10.00	230.46	59,476.43
							353,795.78

The arbitrators also award interest to the Plaintiff at the rate of 3.25% pursuant to NGFA Arbitration Rule 6(F) from the date of this decision until the award is paid in full.

Decided: November 29, 2023

SUBMITTED WITH THE UNANIMOUS CONSENT OF THE ARBITRATORS, WHOSE NAMES APPEAR BELOW:

Mark Hinkle, *Chair*
VP of Feed Grains Management
Bartlett Grain Company LP
Kanas City, MO

Pete Courteau
Grain Marketing Advisor
Central Farm Service
Randolph, MN

Michael Kilgus
Grain Merchandiser
Prairie Central Cooperative, Inc.
Chenoa, IL