



National Grain and Feed Association Arbitration Decision

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December 9, 2024

CASE NUMBER 3140

PLAINTIFF: VALERO GRAIN MARKETING, LLC, FORT DODGE, IA

DEFENDANT: MARK DAGGY, DES MOINES, IA

FACTUAL AND PROCEDURAL BACKGROUND

The plaintiff, Valero Grain Marketing, LLC, requested the entry of a default judgment in the amount of \$366,800.00 against the defendant, Mark Daggy. The default judgment is granted for the reasons set forth below.

The plaintiff submitted an arbitration complaint dated October 11, 2023, to the National Grain and Feed Association (NGFA). The complaint alleged that the defendant failed to perform on contract number 4003015863 for #2 Yellow Corn.

The contract was duly executed by the parties and states in paragraph 23 of the “ADDITIONAL TERMS AND CONDITIONS”:

- 23) **SELLER AND BUYER AGREE THAT ALL DISPUTES AND CONTROVERSIES OF ANY NATURE WHATSOEVER BETWEEN THEM WITH RESPECT TO THIS CONTRACT, OR ANY OTHER COMMODITY CONTRACT BETWEEN THE PARTIES, MUST BE ARBITRATED BY THE NGFA ACCORDING TO THE ARBITRATION RULES OF THE NGFA, AND THE DECISION AND AWARD DETERMINED THEREUNDER WILL BE FINAL AND BINDING ON SELLER AND BUYER.** [emphasis in original]

Acting upon the plaintiff’s complaint, NGFA prepared an arbitration services contract and submitted it to the plaintiff for execution. By Federal Express dated October 27, 2023, NGFA also sent to the defendant a letter providing notice of these proceedings with copies of the plaintiff’s complaint and attachments, as well as the NGFA Trade Rules and Arbitration Rules. Federal Express confirmed that this mailing to the defendant was delivered to the defendant on October 31, 2023.

Upon receipt of the executed arbitration services contract from the plaintiff, NGFA then sent it with accompanying correspondence to the defendant by Federal Express on November 17, 2023. Federal Express confirmed this mailing was delivered to the defendant on November 21, 2023.

On February 2, 2024, NGFA sent to the defendant another letter by Federal Express. Federal Express confirmed this mailing was delivered on February 6, 2024. This letter notified the defendant that Rule 2(E) of the NGFA Arbitration Rules provided for the entry of a default judgment for failure to return a signed arbitration services contract within 15 days.

On February 14 and 16, 2024, the defendant contacted NGFA via facsimile. NGFA called the defendant on February 16 and left a voice message.

On May 1, 2024, NGFA spoke with the defendant by telephone to address the arbitration process.

After not receiving the signed arbitration services contract, on May 24, 2024, NGFA attempted again to speak with the defendant by telephone. Also on May 24, 2024, NGFA sent the defendant another notice via Federal Express. This notice stated as follows:

NGFA Arbitration Rules 2(D) and (E) provide for the entry of a default judgement when a party fails to execute the arbitration contract and pay the service fee within fifteen (15) days. Since the arbitration services contract and arbitration services fee has not been submitted, we must anticipate that you do not intend to participate in the arbitration process. *A default judgment may be entered against you at any time, which the Plaintiff may enforce in a court of law*

Federal Express confirmed this mailing was delivered to the defendant on May 28, 2024.

On July 7, 2024, defendant sent to NGFA a copy of the first page of an article regarding an order from the Commodity Future Trading Commission against an unrelated party to this case. The defendant also included copies of the May 24, 2024 notice from NGFA and the partially executed arbitration services contract.

NGFA has not received an executed arbitration services contract or any further communication from the defendant.

DEFAULT JUDGMENT

NGFA established jurisdiction over this matter pursuant to the express terms of the contract and by way of the plaintiff's status as an NGFA active member.

The plaintiff filed its complaint in conformity with NGFA Arbitration Rule 2(A). Pursuant to Rule 2(B), NGFA then submitted an arbitration services contract to the parties. Rule 2(D) states that, "Each party must return the completed arbitration services contract within 15 days from the date the party receives it from the NGFA Secretary." The plaintiff executed and returned the arbitration services contract. The defendant elected to not comply with the NGFA Arbitration Rules.

NGFA Arbitration Rule 2(E) provides for the following:

Where a party fails to execute the arbitration services contract or pay the arbitration services fee, the NGFA Secretary may without further submissions by the parties enter a default judgment or such other relief as the NGFA Secretary deems appropriate.

Pursuant to Rule 2(E), NGFA finds that entry of default judgment against the defendant is warranted.

NGFA Arbitration Rule 2(E) also sets forth the requirements and conditions under which, "[a]ny party against whom a default judgment has been entered may apply to vacate the default judgment within 15 days of entry of the default judgment." Further, NGFA Arbitration Rule 7 provides that a default judgment issued by NGFA may be appealed under the rules by either party.

THE AWARD

THEREFORE, IT IS ORDERED THAT:

1. The plaintiff is awarded judgment against the defendant for \$366,800.00
2. Interest on the judgment shall accrue at the statutory rate available for judgments in the applicable jurisdiction from this date until paid in full. This award is not intended to preclude the plaintiff from pursuing an additional award for interest, legal fees or costs in a court of law.

Dated: October 9, 2024*

NATIONAL GRAIN AND FEED ASSOCIATION

* On October 9, 2024, NGFA entered the default judgment against the defendant. The defendant was advised regarding the procedures for applying to vacate the default judgment, but the defendant did not apply to vacate the default judgment.