

# SPECIAL NEWSLETTER

## GRAIN & FEED DEALERS NATIONAL ASSOCIATION

100 MERCHANTS EXCHANGE BUILDING  
SAINT LOUIS 2, MISSOURI

May 3, 1949  
No. 5

**ARBITRATION REPORT:** As required in Section 8(k) of the Arbitration Rules, your Secretary reports regarding Case No. 1425 between Benson-Quinn Company, Sioux City, Iowa, plaintiff and Grain Brokerage Company, Des Moines, Iowa, defendant.

Plaintiff submits as an exhibit a copy of his confirmation of sale, which apparently covers all specifications of the trade, including Sioux City grades. He also submits copies of shipping notice, on which Sioux City grades are specified, Sioux City Grain Inspection Certificate, and final account sales from Grain Brokerage Company, covering this car of corn. Defendant submits contract covering this car, signed by Benson-Quinn Company, on which the price is specified immediately followed by "basis Chicago", as well as affidavit of Mr. Weatherwax, who purchased the corn by telephone, in which he states it was purchased on Chicago weights and grades. The question involved is whether Sioux City or Chicago grades should apply, and the Trade Rule relating to the dispute is Rule 4(a).

The decision of the committee follows: The plaintiff contends the car was sold on Sioux City grade, and his confirmation of sale covers this point. The defendant does not deny he received this confirmation. He does deny he received a written confirmation of the trade on Sioux City weights and grades. This is not claimed by the plaintiff. Trade Rule 4, Section (a) makes it mandatory on the part of the defendant to notify the plaintiff of the discrepancy in this confirmation. The defendant relies on his confirmation, signed by the plaintiff. This confirmation does not conform in all particulars to the requirements of Trade Rule 4. Now, therefore, the majority of the committee interprets the term "basis Chicago" as meaning that freight was to be paid to Chicago and not Chicago weights and grades, and finds that the defendant is indebted to the plaintiff for the full amount of its claim, namely \$600.66.

The committee considering this case was composed of Mr. Lyman Bowman, Scott County Milling Company, Sikeston, Mo., Chairman; Mr. Fred Carr, Hallet & Carey Company, Minneapolis, Minn.; and Mr. H. L. Kearns, Kearns Grain & Seed Co., Amarillo, Tex. The committee rendered a majority opinion as indicated above and a minority opinion as outlined below.

The minority of the committee finds as follows: In view of the difference of the corn at these two markets, the only question is "On which market grade was the corn bought?" Now, while Benson-Quinn confirmed on Sioux City grade, Grain Brokerage Company likewise confirmed on Chicago grades, and its confirmation which was sent to Benson-Quinn is signed by it, which would indicate its acceptance of the confirmation of Grain Brokerage Company, which stated Chicago grades. Therefore, I rule in favor of the defendant. There is nothing in the evidence to prove what the discount shall be on corn of this type as shown by the Chicago grade. Therefore, I cannot rule as to how many dollars and cents defendant is due from plaintiff.

The defendant appealed the decision of the arbitration committee and the decision of the Committee on Arbitration Appeals upheld the majority decision of the arbitration committee. However, two members of the Committee on Arbitration Appeals disagreed with the decision of the majority of this committee. The decision of the Committee on Arbitration Appeals follows.

The Trade Rules relating to this dispute are Rule 1, Rule 2 (b) and Rule 4 (a). Plaintiff complied with Rule 1. His confirmation shows clearly his understanding of the trade was Sioux City grades. Defendant relies on his confirmation, that was signed by the plaintiff, but that confirmation did not comply with Rule 1. It did not show that he understood this car to be bought on Chicago grades.

There is some contention that Defendant's confirmation, stipulating, "This contract is subject in all respects to the rules and regulations of the Chicago Board of Trade" infers Chicago terms. But Rule 2 (b) makes it mandatory that the weights and grades of the market agreed upon be stated in the contract. It goes further and states that if the agreed market be a terminal, that that terminal's rules and regulations would also be included in the word "Terms".

Rule 4 (a) makes it the duty of both buyer and seller to notify one another of any differences found in their confirmations. Defendant was clearly on notice that the car was sold on Sioux City grades. He took no exception to that statement. Plaintiff, had he taken action, could only have stated that defendant's contract did not show the terms. In view of the fact that there was no exception to his own, clearly-stated terms, this was not believed mandatory.

There is argument that this car of corn was to be old #2 Yellow Corn and that card bids, being mailed at that time by defendant, were evidence that old-crop corn was contemplated. Those contentions are flatly denied by plaintiff. Plaintiff denies ever receiving card bids and there is no evidence in either the plaintiff's confirmation or the defendant's confirmation that "Old-Crop Corn" was a part of the original trade.

It is the majority opinion of this committee that this car was sold on Sioux City official inspection and the opinion of the original arbitration committee is confirmed that the defendant is indebted to the plaintiff in the sum of \$600.66, and that the defendant be charged with the expense of this arbitration.

A minority opinion contends that the clause in defendant's confirmation, "This contract is subject in all respects to the rules and regulations of the Chicago Board of Trade" included Chicago weights and grades. This opinion holds that each party was equally guilty and that the amount of \$600.66 should be borne equally by plaintiff and defendant and that the arbitration fee should also be divided. This opinion also holds that the price paid is evidence that old crop corn was contemplated, which is borne out by the defendant's bid cards of the date the trade was made, and the previous date, showing a wide spread in price between their bids for old and new corn. The Chicago inspection showed clearly that a portion of the car was loaded with new crop corn, and the balance might have been either old crop or kiln-dried new crop corn.

Another minority opinion disagrees with the finding of the original arbitration committee for the following reasons: I would point out that Rule 4 requirements apply equally to both parties. The plaintiff is equally guilty of failing to comply with Rule 4. The plaintiff is in a weaker position than the defendant because, whether intentionally, or carelessly, he agreed to the defendant's statement and sworn understanding of terms, which were: "Price - - Chicago; Basis - - Chicago" and subject in all respects to the rules and regulations of Chicago Board of Trade. In no place in the defendant's confirmation is there any reference to "Sioux City grades". All references are to Chicago basis rules and regulations - and yet the plaintiff signed the confirmation.