



June 24, 2024

## CASE NUMBER 3056

**PLAINTIFF: BUNGE NORTH AMERICA, INC.  
LA GRANGE, MO**

**DEFENDANT: DAVID PLENGE  
KAHOKA, MO**

## CASE NUMBER 3057

**PLAINTIFF: BUNGE NORTH AMERICA, INC.  
LA GRANGE, MO**

**DEFENDANT: JOHN PLENGE, INC.  
LURAY, MO**

### STATEMENT OF THE CASE

These claims consist of two sets of contracts between the plaintiff, Bunge North America, Inc. (Bunge), and the defendants, David and John Plenge, Inc.

#### 2020 Corn Contracts:

- May 2019 –Bunge entered into contracts with each of the defendants for 25,000 bushels of U.S. No. 2 yellow corn for delivery in July 2020.
- These contracts contained provisions for a daily knock out and daily double up with an expiration date of June 26, 2020.
- June 26, 2020 – the knock out provisions resulted in reducing the total quantity to be delivered under each contract to 20,000 bushels (5,000 bushels knocked out).
- June 2020 –basis was set on the contracts and the Plenges agreed to a Financial Risk Management (FRM) Price Structure which required they deliver additional quantities if the December 2021 corn futures price settled at or above \$4.00 per bushel on November 26, 2021.
- November 26, 2021 –the price settled above \$4.00 which required the defendants to deliver an additional 20,000 bushels under each contract.

#### 2022 Corn Contracts

- August 31, 2020 – Bunge entered into contracts with each defendant for 20,000 bushels of U.S. No. 2 yellow corn for delivery in June and July 2022.

- Accumulator contract – on June 24, 2022 – defendants became obligated to deliver additional quantities of corn

Bunge claims David and John Plenge informed it they would not be performing on the contracts. Bunge also argues the defendants agreed to the contracts and by signing the pricing contracts, it triggered the double up contracts.

David and John Plenge claim they did not agree to FRM price structuring and did not sign the contracts that included it. They state they offered to deliver the fixed quantities but Bunge refused.

## THE DECISION

After extensive discussion and deliberation, the arbitrators concluded the following:

- The contracts in question are enforceable. While in some instances the master contract was signed and the pricing contracts were not or visa verse, we have concluded that they are enforceable because a leg of the contracts were signed.
- While not all of the contracts were individually and expressly signed by all of the parties, there was a demonstrated pattern of understanding by all the parties in the course of these transactions that they were aware of their rights and obligations.
- The text message string with John Plenge neither confirms nor disproves the contracts, so the signatures on the pricing contracts stand.
- That the Plenges had agreed to pay for the cancellation of the one contracts that resonated from the pricing contracts, but did not want to sign the double up contracts, demonstrates the Plenges knew what they were doing.
- With respect to the request by the Plenges for leniency on pricing back to when they asked for cancellation of the contracts, the arbitrators noted the Plenges failed to follow up with Bunge to see that the cancellation was executed and failed to communicate with Bunge until it sent the letters terminating and pricing the contracts.
- The arbitrators find in favor of Bunge.

## THE AWARD

The arbitrators award to Bunge North America, Inc. in the amounts of \$160,191.04 due from David Plenge and \$238,915.45 due from John Plenge, Inc. No interest or attorney fees are awarded.

Decided: March 12, 2024

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

**James Dell**, *Chair*  
CEO and President  
ALVIVIA  
Cottage Grove, WI

**Brad Olson**  
West Region Manager  
Agtegra Cooperative  
Ipswich, SD

**Megan Schmit**  
VP, Northern Grain, Fertilizer  
ADM  
Minneapolis, MN