



National Grain and Feed Association Arbitration Decision

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December 9, 2024

CASE NUMBER 3128

PLAINTIFF: THE SCOULAR COMPANY, MINNEAPOLIS, MN

DEFENDANT: AMERICAN FARMERS COOPERATIVE, BURGESS, VA

FACTUAL AND PROCEDURAL BACKGROUND

The plaintiff, The Scoular Company, requested the entry of a default judgment in the amount of \$77,760.52, against the defendant, American Farmers Cooperative. The default judgment is granted for the reasons set forth below.

The plaintiff submitted an arbitration complaint dated April 25, 2023, to the National Grain and Feed Association (NGFA). The complaint alleged that the defendant failed to perform on contracts PSW083779, PSW083780, PSW091725 and PSW094049 for soybeans.

The purchase confirmations contained the following provision:

This contract is made upon the terms and conditions including the arbitrations clauses of this contract, in contract form NGFA TRADE & ARB in force at the date of this contract, of which the parties admit that they have knowledge and notice, and the details given below shall be taken as having been written into such contract form in the appropriate place. Delivery and risk of lost are covered under Incoterms 2010. Any special terms and conditions contained herein and/or attached hereto shall be treated as if written on such contract form and shall prevail in so far as they may be inconsistent with the printed clauses of such contract form.

Acting upon the plaintiff's complaint, NGFA prepared an arbitration services contract and submitted it to the parties for execution. By letter dated May 26, 2023, NGFA requested the plaintiff execute the arbitration services contract, and it was executed by the plaintiff on June 13, 2023. By letter dated June 23, 2023, NGFA requested the defendant execute the arbitration services contract. After repeated follow up communication by mail, telephone, facsimile and email, the defendant returned the contract executed on February 3, 2024. The arbitration services contract specifically provides that the parties agree to submit this dispute to arbitration by NGFA and to comply with the NGFA Arbitration Rules.

The plaintiff submitted its First Argument on April 1, 2024, in accordance with NGFA Arbitration Rule 4.

On April 5, 2024, NGFA sent a letter along with a copy of the plaintiff's First Argument to the defendant requesting its Answer and reminding the defendant that its Answer was due twenty (20) days from the date the letter was received pursuant to Rule 4. A copy of this letter and the plaintiff's First Argument is attached. USPS confirmed this mailing was delivered to the defendant on April 9, 2024. Thus, the defendant's Answer was due on April 29, 2024.

On May 24, 2024, NGFA spoke by telephone with the defendant inquiring about its answer and whether it had been submitted. The defendant responded it would review its records and get back to NGFA.

After not hearing anything further, NGFA sent a letter to the defendant on June 14, 2024, confirming no answer had been filed and notifying the defendant a default judgment would be issued in this case. USPS confirmed this mailing was delivered on June 17, 2024.

After finally hearing back from the defendant, NGFA on June 20 returned the defendant's telephone call. NGFA called again on June 21, 2024, and left a voicemail.

After several other attempts to communicate, NGFA and the defendant spoke on July 29, 2024. NGFA explained the process to the defendant and that as a result of the defendant not submitting a response by the deadline and that the plaintiff would not agree to filing outside of the deadline. NGFA was required under the rules to issue a default judgment in this case.

DEFAULT JUDGMENT

Both the plaintiff and defendant executed and returned the arbitration services contract, thus agreeing to comply with all NGFA Arbitration Rules and procedures. The arbitration services contract specifically provides as follows:

The parties agree to comply with all NGFA Arbitration Rules... The parties agree that noncompliance with any NGFA Arbitration Rules may result in a default judgment.

Further, NGFA Arbitration Rule 4(I) provides as follows:

In addition to default judgments issued pursuant to Rule 2(E), where a plaintiff fails to file its first argument or a defendant fails to file its answer in accordance with the limits specified in this rule or by the NGFA Secretary, the delinquent party shall be deemed to be in default.

Pursuant to the terms of the arbitration services contract and NGFA Arbitration Rule 4(I), the NGFA Secretary finds that entry of default judgment against the defendant is proper and warranted.

NGFA Arbitration Rule 2(E) also states general provisions and conditions under which a party against whom a default judgment has been entered may request to vacate the default judgment. As applicable in this case – within 15 days of receipt of this default judgment – the defendant may request the judgment be vacated and submit its Answer to the plaintiff's First Argument in compliance with the Arbitration Rules.

THE AWARD

THEREFORE, IT IS ORDERED THAT:

1. The plaintiff is awarded judgment against the defendant for \$77,760.52
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.