



National Grain and Feed Association Arbitration Decision

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December 9, 2024

CASE NUMBER 3136

PLAINTIFF: CONSOLIDATED GRAIN & BARGE CO., MANDEVILLE, LA

DEFENDANT: 3E GRAIN, LLC, TEXARKANA, TX

FACTUAL AND PROCEDURAL BACKGROUND

The plaintiff, Consolidated Grain & Barge Co., requested the entry of a default judgment in the amount of \$766,027,82 against the defendant, 3E Grain, LLC. The default judgment is granted for the reasons set forth below.

The plaintiff submitted an arbitration complaint dated July 31, 2023, to the National Grain and Feed Association (NGFA). The complaint alleged that the defendant failed to perform on contract number 304883 for corn.

The contract was duly executed by the parties and stated: “**(RULES, TERMS AND CONDITIONS INCLUDING BINDING ARBITRATION SET FORTH ON BACK ARE MADE PART HEREOF)**” [emphasis in original]. The contract further stated under paragraph 1 of the terms and conditions as follows:

Seller and Buyer agree that all disputes and controversies of any nature whatsoever between them with respect to this contract shall be arbitrated according to the Arbitration Rules of the National Grain & Feed Association, and that the decision and award determined thereafter shall be final and binding on Seller and Buyer

Acting upon the plaintiff’s complaint, NGFA prepared an arbitration services contract and submitted it to the plaintiff for execution. By Federal Express dated August 16, 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 was rejected by the defendant on August 21, 2023.

Upon receipt of the duly 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 rejected by the defendant on November 22, 2023.

NGFA’s November 17, 2023, letter to the defendant provided notice that Rule 2(E) of the NGFA Arbitration Rules required that the signed contract be returned within fifteen (15) days. NGFA’s letter stated as follows:

NGFA Arbitration Rules 2(D) and (E) provide for the entry of a default judgment when a party fails to execute the arbitration contract and pay the service fee within fifteen (15) days. If NGFA receives a notice that this package has been rejected by you, we must anticipate that you do not intend to respond and a default judgement may be entered against you at any time, which the Plaintiff may enforce in a court of law.

NGFA has not received an executed arbitration services contract 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 \$574,473.08 (\$766,027.82 contract damages - \$191,554.74 offset related to contract)
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.