

Arbitration Decisions

Nov. 6, 1952

CASE NO. 1470

Plaintiff: RALSTON PURINA CO., St. Louis, Mo.

Defendant: B J B GRAIN CO., Toledo, Ohio

- " Nature of Dispute: Was defendant acting as broker or as principal and his responsibility.
- " Amount Involved: \$13,180.00 - COMMODITY: Soybeans
- " Summary of Evidence Submitted by Plaintiff and Rebuttal.
- " Summary of Evidence Submitted by Defendant and Sur-rebuttal.
- " Question Involved: Is defendant, having acted for plaintiff in purchase of beans and placing them in store, responsible for loss when the warehouse company goes into bankruptcy?

In this case there was a majority and minority decision by the original arbitration committee as follows:

MAJORITY REPORT

As to the question of responsibility, it is quite evident from the exhibits that it was the intention of both parties that the B J B Grain Company was acting as broker and was carrying out instructions of the Ralston Purina Co. The plaintiff accepted the bill of sale of both lots, also storage contracts between themselves and the warehouse company. When the loss was discovered, the plaintiff tried to hold the warehouse company but later claimed that the defendant was the principal instead of the broker. We feel that in all phases of this transaction the B J B Grain Company was acting for the Ralston Purina Co. and that the plaintiff was fully aware of all of the actions of the B J B Grain Company.

" Decision of Majority Committee: We decide in favor of the defendant.

" Award: That claim of plaintiff should be disallowed.

" Arbitration Fees: The fees should be charged to the plaintiff."

Signed: C. C. Blair, Chairman
E. C. Kessler, Member

MINORITY REPORT

" Both parties to this transaction failed to use good business practices in entering upon these contracts and by their negligence laid themselves open to undue risks and damage. The defendant claims he was merely acting as broker although he collected in full for the sale, signed the original sales contract as principal, and handled the transaction as a principal with the Cavette Elevator Company as a sub-contractor. The plaintiff has as satisfaction of delivery on the contract a bill of sale signed by the third party. The plaintiff was negligent in this transaction in accepting a mere piece of paper signed by a third party, upon an elevator which was not licensed or bonded for storage, and furthermore, had instructed the defendant to secure the said bill of sale signed by the Cavette Elevator Company as seller.

" Decision of Minority Committee: We feel that both the plaintiff and the defendant were negligent and each has a responsibility and that the loss should be one-half for the defendant and one-half for the plaintiff.

(over)

- " Award: Loss should be divided equally by the plaintiff and the defendant..
- " Arbitration Fees: The fees should be divided equally by the plaintiff and the defendant."

Signed: Ralph H. Brown, Member

ARBITRATION APPEALS COMMITTEE DECISION

" This case involves purchase of 6000 bushels of soybeans in two contracts by the Plaintiff from the Defendant, with the following understanding: (1) That the Defendant was buying these beans from Ohio Feed Company; (2) That a brokerage was to be added by the Defendant to the price he paid for the beans; (3) That the Defendant was to arrange storage with Ohio Feed Company for the account of the Plaintiff; (4) That delivery of the beans would be made by Bills of Sale executed by Ohio Feed Company directly to the Plaintiff:

" When the beans were ordered shipped out of storage by the Plaintiff, it was discovered that Ohio Feed Company did not have beans in storage which could be delivered to the Plaintiff in satisfaction of the storage contract, and that Ohio Feed Company had gone into receivership. The Plaintiff then took the position that the Defendant was responsible as a principal and demanded refund of the purchase price of the beans amounting to \$13,180.00.

" This arbitration seems to hinge upon the question of whether the Defendant was a principal in this transaction and either intended or was expected to guarantee the solvency and responsibility of Ohio Feed Company for as long as the Plaintiff wished to keep the beans in storage.

" It is the opinion of this Committee that the Defendant did not in any of his actions assume the position of a principal or any such responsibility. There is further evidence, not denied by the Plaintiff, that the Defendant customarily did business as a broker. The Defendant revealed the name of his Seller, together with the price being paid. He arranged for storage in the Plaintiff's behalf, and it was initially contemplated that Ohio Feed Company would be paid directly by the Plaintiff. Delivery documents in the form of a Bill of Sale and Storage Contract were drawn up by the Plaintiff for signature by Ohio Feed Company, the Defendant's name not appearing as a principal party to either document.

" In the case of the first contract the Plaintiff asked the Defendant the 'easiest way' to handle these documents and take care of the payment in the Plaintiff's behalf. The Defendant did this and, presumably, due to this request, voluntarily made a similar arrangement in the second contract.

" This Committee cannot find any evidence that the Defendant was asked to or did assume responsibility as to the integrity of Ohio Feed Company, or as to the ultimate execution of the storage contract. The Plaintiff was in full possession of all of the facts and accepted both Bills of Sale and Storage Agreements with Ohio Feed Company without question.

" This Committee unanimously affirms the Majority decision of the Original Arbitration Committee in favor of the Defendant. Arbitration fees are assessed against the Plaintiff."

F. E. Gillette, Chairman
F. J. Faber, Member
W. B. Fox, Member
B. O. Holmquist, Member
H. E. Sanford, Member