

# Arbitration Decisions

June 19, 1952

CASE NO. 1474

PLAINTIFF: MILWAUKEE FEED & GRAIN CO., MILWAUKEE, WISC.

DEFENDANT: F. J. SENNOTT, BOSTON, MASS.

Commodity Involved: Soybean Oil Meal

Arbitration Committee Decision: For the Plaintiff

" Plaintiff and Defendant contracted for Soybean Oil Meal to be shipped during July, August and September, 1950. Plaintiff bought several lots from Defendant and likewise sold several lots to Defendant. At the expiration of the September contracts some unshipped balances remained between them. By 'phone on October 15, 1950, Plaintiff and Defendant agreed to cancel all unshipped portions of the various contracts involved at \$53.50 bulk basis Decatur, Illinois

" Both parties were in error as to the tonnage balances existing and the money differences to be settled, however, both parties agreed to wash out whatever remained unshipped at a certain price. Plaintiff forwarded to Defendant a credit memo for \$1,440.00, whereas the correct settlement should be a debit memo to Defendant for \$1,420.00. Both parties failed to comply with Rule 14 of the Feed Trade Rules and they waived their rights under this Rule by their agreement of October 15, 1950.

" On June 1, 1951 Plaintiff notified Defendant of the arithmetical error which had occurred. Defendant contends that the original settlement should remain in force because Plaintiff made the error, Plaintiff insisted on the cancellation and Plaintiff did not discover the error for eight (8) months. We find nothing in the Rules to cover this situation but believe it equitable to settle on the correct basis rather than an erroneous basis and feel that a meeting of the minds existed on October 15, 1950 to cancel all tonnages unshipped.

" The Committee unanimously decides for the Plaintiff in the sum of \$1,420.00. Arbitration costs to be shared equally by both parties."

Committee Names: Fred C. Lovitt, L. B. Lovitt & Co., Memphis, Tenn. - Chairman  
Dwight Dannen, Dannen Mills, St. Joseph, Mo.  
H. R. Diercks, Cargill, Inc., St. Louis, Mo.