



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

September 11, 1986

ARBITRATION CASE NUMBER 1629

Plaintiff: Dave Wallace, DeSoto, Mo.

Defendant: Italgrani Elevator of Missouri Inc., St. Louis, Mo.

Statement of the Case

The plaintiff and defendant entered into an oral contract calling for the plaintiff to provide 2,500 bushels of soybeans for October-November 1983 delivery. The price was to be computed by using July 25, 1983 Chicago open less 15 cents basis. The price established was \$7.10 per bushel minus 15 cents, equating to \$6.95 per bushel.

This method of pricing had been used in past contracts. Italgrani Elevator confirmed the contract in writing. However, an error was made on the confirmation reading \$6.90 instead of \$6.95 per bushel. After the plaintiff notified the defendant of the mistake, a correction was made by the defendant.

On Aug. 18, 1983, Wallace telephoned Italgrani Elevator stating that he did not recognize the contract and did not intend to comply. Italgrani Elevator responded that the contract was valid and that it expected delivery.

The delivery was not made by Nov. 30, 1983. As a result, Italgrani Elevator offset \$3,075 from a previous contract representing the difference between the market on Nov. 30, 1983 and the contract price.

The plaintiff claimed the contract was not valid because the incorrect price on the confirmation changed the oral contract to an offer to buy, which was not accepted by the plaintiff. The amount of the claim is \$3,075.

The Decision

The arbitration panel decided in favor of the defendant, Italgrani Elevator of Missouri. Neither party denied the existence of an oral contract nor argued the pricing method. The panel ruled that the oral contract was valid and was not altered by the error on the confirmation. The error was corrected upon notification in an appropriate and timely way; therefore, no unilateral cancellation could be allowed.

As a result of this decision, no award is made.

Submitted with the consent and approval of the arbitration panel, whose names are listed below.

W. E. Balsiger, chairman
Harvest States Cooperatives
Portland, Ore.

Donn Kunz
Midstates Terminals Inc.
Toledo, Ohio

Henry Cooklin
Demeter, Inc.
Goodland, Ind.