



National Grain and Feed Association Arbitration Decision

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November 14, 2014

CASE NUMBER 2724

PLAINTIFF: THE DELONG CO., INC., CLINTON, WI

DEFENDANT: PAC GLOBAL SOLUTIONS, LLC, BENSENVILLE, IL

FACTUAL AND PROCEDURAL BACKGROUND

The plaintiff, The DeLong Co., Inc. (DeLong), requested the entry of a default judgment in the amount of \$58,093.25 against the defendant, PAC Global Solutions, LLC (PAC). The default judgment is granted for the reasons set forth below.

DeLong submitted an arbitration complaint dated May 21, 2014, to the National Grain and Feed Association (NGFA) involving the sale of Dried Distillers Grains with Solubles for \$58,093.25 under contracts numbered 45695 and 52234, which were duly agreed upon by both DeLong and PAC. The contracts stated: “THIS CONTRACT IS MADE IN ACCORDANCE WITH THE TRADE AND ARBITRATION RULES OF THE NATIONAL GRAIN AND FEED ASSOCIATION”. (Emphasis in Original)

Acting upon DeLong’s complaint, NGFA prepared an arbitration services contract and submitted it to DeLong for execution. By certified mail dated June 4, 2014, NGFA also sent to PAC a letter providing notice of this proceeding with copies of DeLong’s complaint and attachments, as well as the NGFA Trade Rules and Arbitration Rules. The certified mail receipt confirmed that this mailing to PAC was received on June 9, 2014.

Upon receipt of the duly executed arbitration services contract from DeLong, NGFA then sent it with accompanying correspondence to PAC by certified mail on June 13, 2014. The certified mail receipt confirmed that this mailing to PAC was received on June 18, 2014.

On July 14, 2014, NGFA sent to PAC another letter by certified mail. The certified mail receipt confirmed this mailing was delivered on July 18, 2014. NGFA’s letters of June 13 and July 14 to PAC specifically provided notice that Rule 2 of the NGFA Arbitration Rules required that the signed contract be returned within fifteen (15) days.

On July 30, 2014, NGFA received communication from Bauch & Michaels, LLC stating it would be representing PAC in this matter. All previous correspondence and materials were then mailed to PAC’s counsel.

After still not receiving any response from PAC or its counsel, or any indication that a response was forthcoming, NGFA sent yet another notice to PAC on September 2, 2014 by certified mail. This notice further specifically 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. Based upon the lack of any response from you thus far, we must anticipate that you do not intend to respond. *This is our last attempt to elicit a response from you. A default judgment may be entered against you at any time, which the Plaintiff may enforce in a court of law.* [Emphasis in original].

The certified mail receipt confirmed that this mailing was delivered to PAC on September 5, 2014.

NGFA has yet to receive an executed arbitration services contract from PAC, despite the repeated attempts by NGFA to contact PAC.

DEFAULT JUDGMENT

The NGFA established jurisdiction over this matter pursuant to the express terms of the contracts and by way of DeLong's status as a NGFA active member.

DeLong properly and in a timely manner filed its complaint under NGFA Arbitration Rule 2(A). Pursuant to Rule 2(B), the 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." DeLong properly executed and returned the arbitration services contract. PAC refused to comply with the NGFA Arbitration Rules, and refused to respond to any requests from NGFA for the executed contract.

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.

As PAC made a conscious decision to disregard these arbitration proceedings, pursuant to Rule 2(E) of the NGFA Arbitration Rules, the NGFA Secretary finds that entry of default judgment against PAC is proper and 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." *

THE AWARD

THEREFORE, IT IS ORDERED THAT:

1. The DeLong Co., Inc. is awarded judgment against PAC Global Solutions, LLC in the amount of \$58,093.25.

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 10, 2014

NATIONAL GRAIN AND FEED ASSOCIATION

By: Charles M. Delacruz
NGFA Secretary

* On October 10, 2014, 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.