



National Grain and Feed Association Arbitration Decision

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July 10, 2015

CASE NUMBER 2748

PLAINTIFF: GREEN PLAINS CENTRAL CITY LLC, OMAHA, NE

DEFENDANT: DAILEY FEED INC., ALBION, NE

FACTUAL AND PROCEDURAL BACKGROUND

The plaintiff, Green Plains Central City LLC (Green Plains), requested the entry of a default judgment in the amount of \$225,426.00 against the defendant, Dailey Feed Inc. (Dailey Feed). The default judgment is granted for the reasons set forth below.

Green Plains submitted an arbitration complaint dated November 6, 2014 to the National Grain and Feed Association (NGFA). The complaint alleged that Dailey Feed defaulted on five contracts it entered into with Green Plains for Modified Distillers Grain.

Each of the contracts in paragraph 2 under “Terms and Conditions” stated:

Parties acknowledge and understand the arbitration rules, regulations and standards set forth by the National Grain and Feed Association shall apply to extent not inconsistent with the Contract whether or not the Parties are members of said association. Parties agree to settle any controversies hereunder by arbitration, that the arbitration rules of the National Grain and Feed Association shall be the basis of said arbitration, and that the decision and award determined by said arbitration shall be final and binding upon the parties...

Acting upon Green Plains’ complaint, NGFA prepared an arbitration services contract and submitted it to Green Plains for execution. By certified mail dated February 9, 2015, NGFA also sent to Dailey Feed (through its counsel Bradley Easland) a letter providing notice of these proceedings with copies of Green Plains’ complaint and attachments, as well as the NGFA Trade Rules and Arbitration Rules. The certified mail receipt confirmed that this mailing to Mr. Easland was received on February 18, 2015.

Upon receipt of the duly executed arbitration services contract from Green Plains, NGFA then sent it with accompanying correspondence to Dailey Feed (through its counsel) by certified mail on March 10, 2015. The certified mail receipt confirmed that this mailing to Dailey Feed was received on March 16, 2015.

By letter dated March 31, 2015, Dailey Feed submitted the fully executed arbitration services contract. Dailey Feed did not include payment for the arbitration services fee. During a telephone conversation on April 17, 2015, Mr. Easland stated Dailey Feed consented to submit Green Plains’ claim to NGFA Arbitration, but that Dailey Feed would not be participating in the process in any manner.

DEFAULT JUDGMENT

NGFA established jurisdiction over this matter pursuant to the express terms of the contracts, the fully executed arbitration services contract, and by way of Green Plains' status as a NGFA active member.

Green Plains properly and in a timely manner filed its complaint under 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." Green Plains properly executed and returned the arbitration services contract. Dailey Feed refused to comply with the NGFA Arbitration Rules, and participate in the NGFA Arbitration Process.

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 it appears that Dailey Feed has 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 Dailey Feed 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. Green Plains Central City LLC is awarded judgment against Dailey Feed Inc. for \$225,426.
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: May 29, 2015

NATIONAL GRAIN AND FEED ASSOCIATION

By: Charles M. Delacruz
NGFA Secretary

*On May 29, 2015, 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