



National Grain and Feed Association Arbitration Decision

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May 17, 2016

CASE NUMBER 2763

PLAINTIFF: CHS INC.
INVER GROVE HEIGHTS, MN

DEFENDANT: JC HORIZON LTD.
ARCADIA, CA

FACTUAL AND PROCEDURAL BACKGROUND

The plaintiff, CHS Inc. (CHS), requested the entry of a default judgment in the amount of \$198,962.75 against the defendant, JC Horizon Ltd. (JC Horizon). The default judgment is granted for the reasons set forth below.

CHS submitted an arbitration complaint dated September 2, 2015 to the National Grain and Feed Association (NGFA). The complaint alleged that JC Horizon failed to perform on contracts 336834, 336837 and 336839 for approximately 1,175 tons of Dried Distillers Grain. These contracts were duly signed by both parties.

All of the contracts stated “TRADE RULES: NGFA.” The contracts also specifically under “Sales Terms and Conditions” as follows:

14. Buyer and Seller agree that all disputes and controversies of any nature whatsoever between them with respect to the subject matter of this confirmation shall be arbitrated according to the arbitration rules of the applicable trade association,...

Acting upon CHS’s complaint, NGFA prepared an arbitration services contract and submitted it to JC Horizon for execution. By federal express dated September 28, 2015, NGFA also sent to JC Horizon a letter providing notice of these proceedings with copies of CHS’s complaint and attachments, as well as the NGFA Trade Rules and Arbitration Rules. Federal Express confirmed that this mailing to JC Horizon was signed for and received on October 5, 2015.

Upon receipt of the duly executed arbitration services contract from CHS, NGFA then sent it with accompanying correspondence to JC Horizon by federal express on October 20, 2015. Federal Express confirmed that this mailing to JC Horizon was signed for and received on October 29, 2015.

On January 22, 2016, CHS provided NGFA with copies of the fully executed contracts. On February 5, 2016, NGFA sent to JC Horizon another letter by federal express along with copies of the contracts fully executed by both parties. Federal Express confirmed this mailing was signed for and delivered on February 8, 2016.

NGFA's letters of October 20, 2015, and February 5, 2016 to JC Horizon specifically provided notice that Rule 2 of the NGFA Arbitration Rules required that the signed contract be returned within fifteen (15) days.

After still not receiving any response from JC Horizon, or any indication that a response was forthcoming, NGFA sent yet another notice to JC Horizon on February 29, 2016 by federal express. 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].

Federal Express confirmed that this mailing was delivered to JC Horizon on March 4, 2016.

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

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

CHS 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." CHS properly executed and returned the arbitration services contract. JC Horizon 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 it appears that JC Horizon 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 JC Horizon 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."*

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| THE AWARD |
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THEREFORE, IT IS ORDERED THAT:

1. CHS Inc. is awarded judgment against JC Horizon Ltd. for \$198,962.75.
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: April 13, 2016

NATIONAL GRAIN AND FEED ASSOCIATION

By: Charles M. Delacruz
NGFA Secretary

* On April 13, 2016, 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.