



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

December 27, 1977

ARBITRATION CASE NO. 1537

PLAINTIFF: Bunge Corporation, New York, New York

DEFENDANT: Donald Farris, Miller City, Illinois

Farris contracted on or about July 20, 1972 to sell 10,000 bushels of No. 1 yellow soybeans to Bunge at a price of \$3.06 per bushel, to be delivered during October and November, 1972. The market price of soybeans rose considerably after that date. Weather conditions made harvesting extremely difficult during the delivery period. Various conversations were had between Farris and representatives of Bunge Corporation. Farris claimed he asked Bunge to buy out his contract on or about November 1, 1972. No writing has been produced to demonstrate this fact. Bunge's representatives denied this occurred. Farris claimed he repudiated his contract in November of 1972. Bunge's representatives denied this. Farris claimed Bunge refused to accept delivery of soybeans under the contract terms. Bunge denied this. Bunge sent Farris a letter, dated November 27, 1972, which Farris received, extending the contract for sixty days. This extension was possible under the terms of the contract Farris signed. Farris did not reply to this letter. One delivery of 26.44 bushels of soybeans under the contract was made by Farris to Bunge on October 26, 1972. No deliveries were made after that date. On December 29, 1972, Bunge sent Farris an invoice for \$10,871.18, representing the amount due on the undelivered soybeans at the difference between the contract price of \$3.06 and the market price as of that date of \$4.15. Farris did not reply to this invoice. More conversations took place between Bunge and Farris. On January 6, 1973, Farris informed Bunge that he did not intend to deliver any more soybeans under the contract. Bunge sent letters requesting payment of amounts due as of January 6, 1973. One of those letters contained a clerical error, reading \$669.07 instead of \$11,669.07. Considering Farris' statement of January 6, 1973 to be a repudiation of the contract, Bunge claimed damages of \$11,669.07, representing the difference between the market price on January 6, 1973 and the contract price on a balance of 9,973.56 bushels. Farris denied all liability.

The committee found for the Plaintiff, Bunge Corporation in the amount of \$10,871.18. The committee discounted charges and counter-charges made in contradictory affidavits drawn up years after the events in question which were not supported by writings made at the time of the events. Therefore, the committee found that Farris did not ask representatives of Bunge to buy out the contract during October or November. The committee found that Farris did not repudiate his contract at that time. The committee considered Bunge's invoice of December 29, 1972 to be evidence of Bunge's acceptance of Farris' repudiation of the contract as of that date. The committee was unable to see what other construction could be placed on the sending of that invoice. The contract was therefore repudiated as of December 29, 1972. The market price as of that date was

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\$4.15 per bushel, as indicated in Bunge's invoice of that date. The measure of damages was therefore the amount of beans not delivered under the contract multiplied by the market price as of December 29, 1972, less the same amount of beans multiplied by the contract price.

AWARD

This committee, after considering this case upon the Plaintiff's argument, the Defendant's answer, the Plaintiff's rebuttal, and the Defendant's surrebuttal, all of which were submitted to the committee in writing, finds for the Plaintiff, Bunge Corporation, in the amount of \$10,871.18.

ARBITRATION COMMITTEE

/s/ K.D. Peterson, Chairman
Landmark, Inc.
Columbus, Ohio

/s/ Frank T. Heffelfinger
Peavey Company
Minneapolis, Minnesota

/s/ Dewayne Bloem
Alden Cooperative Elevator
Alden, Iowa