



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

January 21, 1988

Arbitration Case Number 1642

Plaintiff: The Farmers Cooperative Grain Co., Haven, Kan.

Defendant: Fessenden Cooperative Association, Fessenden, N.D.

Statement of the Case

The plaintiff, Farmers Cooperative Grain Co. (Haven Co-op), and the defendant, Fessenden Cooperative Association (Fessenden Co-op), were involved in negotiations relative to a potential "PIK-and-roll substitution" transaction with generic commodity certificates during the latter days of October 1986.

In this case, Haven Co-op asserted that on Oct. 27, 1986 it entered into an "oral contract" through a broker (Farmers Commodity Corporation (FCC), Kansas City, Mo. for the PIK-and-roll of not less than 100,000 bushels of corn. The "contract" called for the payment of commissions or fees of 20 cents per bushel (8 cents to Haven Co-op and 12 cents to FCC. Haven Co-op also asserted that it purchased generic certificates, in reliance upon the "contract," to complete the transaction. Based upon lost commissions, lost profits and a trading loss from the purchase of generic certificates, Haven Co-op claimed damages of \$37,029.11.

Fessenden Co-op contended that a contract did not and could not exist because an agreement between the parties had not been reached.

The Decision

The issue in this case was whether or not a contract existed.

The arbitration panel decided unanimously that a contract did **not** exist between the parties, either written or oral, and found in favor of the defendant.

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

Charles Buirge, chairman
Peavey Grain Co.
Minneapolis, Minn.

Fred McKim
West Bend Elevator Co.
West Bend, Iowa

Duane Stich
Bunge Corporation
Minneapolis, Minn.