



# Arbitration Decision

National Grain and Feed Association

September 25, 1997

## Arbitration Case Number 1849<sup>®</sup>

**Plaintiff: Schmadeke Feed Mill Inc., Clarksville, Iowa**

**Defendant: Didion Inc., Johnson Creek, Wis.**

### Findings Dismissing Complaint

The plaintiff, Schmadeke Feed Mill Inc., by and through its attorney, initiated this arbitration case by letter dated July 7, 1997.

The plaintiff asserted a claim for monetary damage against the defendant, Didion Inc., arising out of delivery of five loads of corn on contract number 33550 delivered to the defendant by the plaintiff. A NGFA Contract for Arbitration subsequently was prepared and sent by letter dated July 17, 1997 to the plaintiff for execution and payment of the arbitration service fee.

Among other things, the July 17, 1997 letter from the NGFA advised the plaintiff that it had 15 days from receipt of that letter to execute and return the NGFA Contract for Arbitration and the arbitration service fee pursuant to Section 5(c) and (d) of the NGFA Arbitration Rules. The U.S. Postal Service Domestic Return Receipt showed that the plaintiff's attorney received that letter on or about July 21, 1997. Nevertheless, as of Sept. 10, 1997, the NGFA had not received the executed contract or the arbitration service fee from either the plaintiff or its attorney.

It is the National Secretary's responsibility to administer the NGFA Arbitration System and to make such

procedural decisions as are necessary to carry out the purposes of the NGFA Arbitration Rules. The plaintiff submitted to the jurisdiction of the NGFA Arbitration System by filing the arbitration complaint. As a party to an arbitration case, the plaintiff had an obligation to comply with the NGFA Arbitration Rules. Yet, the plaintiff clearly failed to abide by the express time limits set forth in Section 5 of the NGFA Arbitration Rules. Therefore, the plaintiff is ruled in default of the NGFA Arbitration Rules.

### The Decision

It therefore is ordered that:

- ▶ the claims set forth in the complaint filed by Schmadeke Feed Mill Inc. against Didion Inc. are denied in their entirety; and
- ▶ the plaintiff's complaint is dismissed with prejudice.

Dated Sept. 11, 1997

By: David C. Barrett Jr.  
National Secretary

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