



National Grain and Feed Association

# Arbitration Decision

1250 Eye St., N.W., Suite 1003, Washington, D.C. 20005-3922  
Phone: (202) 289-0873, FAX: (202) 289-5388, E-Mail: [ngfa@ngfa.org](mailto:ngfa@ngfa.org), Web Site: [www.ngfa.org](http://www.ngfa.org)

December 12, 2002

## Arbitration Case Number 2017

**Plaintiff:** Central Soya Co. Inc., Cincinnati, Ohio

**Defendants:** James and Rosemary Bake, Middletown, Ohio

### Statement of the Case

This dispute involved nine contracts for the sale of soybeans and corn by James and Rosemary Bake (“the Bakes”) to Central Soya Company Inc. (“Central Soya”). The contract details were as follows:

Contract Number	Commodity	Quantity	Time of Shipment
013-0063028-01	Soybeans	3500 bu.	10/06/97-11/30/97
013-0063063-01	Soybeans	3500 bu.	10/08/97-11/30/97
013-0063132-01	Soybeans	3500 bu.	10/13/97-11/30/97
013-0063546-01	Soybeans	9374.98 bu.	10/01/97-11/30/97
013-0063390-01	Corn	5000 bu.	11/03/97-11/30/97
013-0063420-01	Corn	5000 bu.	11/10/97-11/10/97
013-0063468-01	Corn	5000 bu.	11/18/97-11/30/97
013-0063520-01	Corn	5000 bu.	12/01/97-12/31/97
013-0063554-01	Corn	5000 bu.	12/08/97-12/31/97

Each was a basis contract, such that Central Soya advanced the Bakes 75 to 80 percent of the then-prevailing market price, with final contract pricing set for a later time. Under the terms of the contracts, at the time of pricing the Bakes would receive market price (less the amounts advanced) if market prices increased. However, if market prices declined to levels that were less than the amounts advanced, the Bakes would owe money to Central Soya pursuant to the contracts.

The contracts originally were set to be priced in March 1998. But market prices declined, and the contracts were extended by mutual agreement. The contracts ultimately were extended on eight separate occasions while market prices continued to decline. The Bakes assigned promissory notes to Central Soya for \$14,744.77 on Jan. 22, 1999, and \$30,564 on July 7, 1999. The Bakes also paid \$2,000 to Central Soya on Dec. 16, 1999. The final extended dates for expiration and pricing of the contracts were in August 2000 for the corn contracts and April 2001 for the soybeans contracts.

Central Soya contended that the contracts were valid and enforceable against the Bakes. Central Soya sought contractual damages of \$76,430.47, plus interest and attorneys’ fees, less the \$2,000 paid by the Bakes.

The Bakes disputed the validity of these contracts on the grounds that they were unaware of the risks and possible ramifications of entering into these types of contracts. The Bakes alleged that Central Soya failed to explain these risks to them, and misled and induced them into agreeing to the contracts. The Bakes further claimed that their promissory notes were provided because of the insistence of, and pressure exerted by, Central Soya. The Bakes asserted a counterclaim against Central Soya amounting to \$53,605.61, representing the difference between market value of the grain sold (\$206,422.41) and the amount paid by Central Soya (\$154,816.80), plus the amount paid to Central Soya (\$2,000). The Bakes also sought reimbursement of attorneys’ fees and costs.

Central Soya contested the Bakes’ allegations and counterclaim.

The Bakes originally brought this action in Ohio state court, which issued an order compelling arbitration of this case pursuant to the contract in Bake v. Central Soya Company, Case No. A-0106436 (Ct. C.P. Hamilton Co., OH, Dec. 20, 2001).

### The Decision

The parties did not dispute the exact terms of the nine contracts. Instead, the issue involved whether the contracts were valid and enforceable.

The Bakes contended that they should not be bound to the contract terms because they were unaware of the risks, which they alleged were not explained to them by Central Soya.

The obligation upon every person entering into a contract to understand its contents and meanings before signing is well established. In this matter, there were no grounds upon which to find that the Bakes should not or could not have made themselves aware – even if they were not, in fact, aware – of the nature of these contracts. Even assuming – as the Bakes claimed and Central Soya disputed – that the Bakes unknowingly relied upon representations and advice from Central Soya to their detriment, there was no sufficient

reason upon which to disregard the exact terms of the contracts. Basis contracts, such as these, are not unusual in the trade and production of grain. The Bakes had at least 17 years of commercial grain sales experience prior to entering into these contracts, and there was no indication that they could not have insisted upon other terms of sale or transacted with a different buyer.

Therefore, the arbitrators found the contracts to be valid and enforceable.

## The Award

The plaintiff's claims were as follows:

Soybean contracts	\$38,742.57	Corn contracts	\$35,508.50
Assessment	\$ 326.28	Fees	\$ 7.29
Delayed price	\$ 1,406.25	Fees	\$ 247.23
<u>Delayed price</u>	<u>\$ 67.36</u>	<u>Grain assessment</u>	<u>\$ 124.99</u>
Subtotal	\$40,542.46	Subtotal	\$35,888.01
		Total Claims	\$76,430.47

The main components of the plaintiff's claims (\$38,742.57 for the soybean contracts and \$35,508.50 for the corn contracts) were based upon the following calculations:

Contract Number	Bushels	Original CBOT Price	Orig. Basis	Amt. of Advance	Final CBOT Price	Final Basis	Net Final Price	Owed by Bakes
0063028	3,500	6.5450	-.1600	\$17,257	4.2275	-.9975	3.2300	\$ 5,952.01
0063063	3,500	6.5450	-.2100	\$37,167	4.2275	-1.0475	3.1800	\$14,907.00
0063132	3,500	6.5450	-.2100		4.2275	-1.0475	3.1800	
0063546	9,374.98	6.5450	-.0100	\$49,571	4.2275	-0.8475	3.3800	\$17,883.56
0063390	5,000	2.6225	-.2200	\$ 9,452	1.8375	-1.3450	0.4925	\$ 6,989.49
0063420	5,000	2.6225	-.2300	\$ 9,863	1.8375	-1.3550	0.4825	\$ 7,450.50
0063468	5,000	2.6225	-.1700	\$ 9,975	1.8375	-1.2950	0.5425	\$ 7,262.50
0063520	5,000	2.6225	-.0800	\$10,237	1.8375	-1.2050	0.6325	\$ 7,074.51
0063554	5,000	2.6225	-.0500	\$10,044	1.8375	-1.1750	0.6625	\$ 6,731.50

No reasons to question this assessment were presented. However, with respect to the plaintiff's claim for attorneys' fees, there was no showing of the extent or amount of the expenses claimed.

Based upon the evidence presented, the arbitrators denied the Bakes' counterclaim against Central Soya, denied Central Soya's claim for attorneys' fees, and ordered that the Bakes pay Central Soya the following amounts to resolve this dispute:

Corn contracts (including contract fees and grain assessment)	\$35,888.01
Soybeans contracts (including delayed price and assessment costs)	\$40,542.46
6 percent per annum interest from April 27, 2001-Sept. 30, 2002 (to accumulate daily until paid)	\$ 6,326.59
(less amount paid by the Bakes)	(-)\$ 2,000.00
Total Award Due Plaintiff	\$80,757.06

Submitted with the unanimous consent of the arbitrators, whose names appear below:

**Gerald Freudenthal**, *Chairman*  
Manager, Oahe Grain Corp.  
Onida, S.D.

**Francis Marron**  
Grain Team Leader  
Ag Partners LLC  
Albert City, Iowa

**Keith Swigart**  
Manager  
Minier Cooperative Co.  
Minier, Ill.