



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, Web Site: www.ngfa.org

April 1, 2004

Arbitration Case Number 2063

Plaintiff: Steve Ramon, Shepherd, Mich.

Defendant: Brown Milling of Shepard, Mount Pleasant, Mich.;
Northern Star Integrated Services LLC, Okemos, Mich.

Factual and Procedural Background

The plaintiff, Steve Ramon, on Nov. 26, 2002 filed a complaint in the State of Michigan District Court for the County of Isabella that named two individual defendants, Northern Star Integrated Services LLC (“Northern Star”) and Brown Milling of Shepard (“Brown Milling”).

In his complaint, Ramon stated that Northern Star is a Michigan corporation and Brown Milling is a sole proprietorship, and that both were doing business in Isabella County, Michigan, where Ramon operated a farm. Ramon’s claims arose out of an agreement involving the three parties for the purchase and sale of grain. Ramon sought damages totaling \$10,028.49, plus attorneys’ fees and costs. This dispute ultimately was referred from the state court to the National Grain and Feed Association (NGFA) for arbitration.

On Feb. 3, 2003, the NGFA received Ramon’s arbitration complaint, dated Jan. 21, 2003. The arbitration complaint contained allegations essentially identical to those cited in the complaint filed with the state court, except the arbitration complaint named only Northern Star as a party defendant. The arbitration complaint did not name Brown Milling as a party. The NGFA’s National Secretary then confirmed with the attorneys for both Ramon and Northern Star that Brown Milling was not intended to be a party to the arbitration case at that time, even though it previously had been named as a separate and direct defendant in the state court complaint. Brown Milling was a NGFA member while neither Ramon nor Northern Star was a NGFA member at the time.¹ Brown Milling’s status in the arbitration case, as well as the status of Brown Milling, Northern

Star and Ramon as members in the NGFA, is important because, as a threshold jurisdictional requirement under NGFA Arbitration Rules [*NGFA Arbitration Rules Section 3(a)(1)-(2)*], the NGFA only may properly consider a case in which at least one of the parties is a NGFA member.

The NGFA consequently notified the parties on Feb. 12, 2003 that it did not have jurisdiction over this dispute because neither of the named parties (Ramon and Northern Star) was a NGFA member at the time. By letter of Aug. 5, 2003, Northern Star’s attorney advised that he was then also representing Brown Milling, and that Brown Milling was being added to the arbitration proceedings as a party. Because Brown Milling was and remained an active NGFA member during the requisite periods of time, the NGFA then accepted this dispute for resolution pursuant to the Arbitration Rules.

Acting upon the complaint, and in accordance with the Arbitration Rules, the NGFA prepared a contract for arbitration and submitted it to Ramon’s attorney for execution along with a letter advising that Sections 5(c) and (d) of the Arbitration Rules require that the arbitration service fee and the signed contract be returned within fifteen (15) days). This contract and letter were sent by facsimile and first-class mail on Aug. 29, 2003. After not receiving any response from Ramon for more than two months, the NGFA sent a letter by facsimile and first-class mail on Nov. 5, 2003 to Ramon’s counsel inquiring about the contract and Ramon’s intentions regarding this claim. The NGFA then sent another letter by facsimile and first-class mail to Ramon on Dec. 1, 2003, again inquiring

¹ Northern Star subsequently joined the NGFA in March 2003.

about his intentions. This Dec. 1 letter also specifically referred to Arbitration Rules Section 5(e) as stating:

“Where a party fails to pay the arbitration service fee and/or fails to execute the contract for arbitration, the National Secretary may without further submissions by the parties enter a default judgment or such other relief as the National Secretary deems appropriate.”

The Dec. 1 letter further requested that Ramon comply

Dismissal

Acting upon Ramon’s arbitration complaint, and in accordance with NGFA Arbitration Rules Section 5(b), the NGFA submitted a contract for arbitration to Ramon. Section 5(d) required that Ramon, “complete the contract for arbitration within fifteen (15) days from the date the party receives the contract from the National Secretary.” Despite repeated requests and notices from the NGFA, Ramon never indicated in any manner that he intended to complete the contract for arbitration, respond to the NGFA’s inquiries, or otherwise participate further in these arbitration proceedings.

Thus, it appeared that Ramon made a conscious decision to disregard these arbitration proceedings. Therefore, pursuant to the NGFA Arbitration Rules, entry of dismissal against Ramon is appropriate. Section 5(e) of the Arbitration Rules sets forth the requirements and conditions under which a party against whom a default judgment has been entered may apply to vacate a default judgment within 15 days of entry of such judgment. Because the entry of dismissal of Ramon’s claim in this case is comparable to the entry of default judgments against defendants, Ramon in this matter similarly may apply to vacate this dismissal within 15 days pursuant to Section 5(e).

within 20 days.

On Dec. 22, 2003, the NGFA sent yet another notice by both facsimile and first-class mail to Ramon. This mailing included copies of the prior notices, the contract for arbitration, and other documents. This notice again referenced the NGFA’s Arbitration Rules, which provide for the disposition of a case upon failure to execute an arbitration contract and pay the arbitration service fee.

Order

Therefore, it is ordered that:

Plaintiff Steve Ramon’s claims for damages against defendants Brown Milling of Shepard and Northern Integrated Services LLC hereby are dismissed.

Dated: Feb. 25, 2004

By: **Charles M. Delacruz**
National Secretary