



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

February 15, 2007

Arbitration Case Number 2124

Plaintiff: Richard L. Peters, Trilla, III.

Defendant: Cooperative Marketing Alliance, Memphis, Tenn.

Statement of the Case

This dispute involved a marketing pool arrangement between Richard L. Peters (Peters) and Cooperative Marketing Alliance (CoMark).

The agreement provided for Peters to sell and deliver to CoMark 10,000 bushels of corn and 5,000 bushels of soybeans. CoMark agreed to purchase, pool and sell these bushels on behalf of Peters.

The Decision

The arbitrators concluded that a marketing agreement was entered into between Peters and CoMark on July 7, 2003. Both parties signed the agreement. The arbitrators determined that the agreement was consistent with NGFA Grain Trade Rule 1, which provides the general terms and conditions for inclusion in contracts between buyers and sellers. In addition, the agreement specifically referenced the NGFA Arbitration System and NGFA's Arbitration Rules as the sole remedy to resolve any and all disputes arising from the agreement between the parties. The terms and conditions of this agreement constituted the basis upon which the arbitrators reached their decision.

At issue in this case was the price received for the committed bushels, the manner in which they were marketed and delivered, and by whom they were marketed. On these questions, various conver-

sations and oral representations between the parties were alleged. However, the arbitrators concluded that the agreement that was signed by both parties did not provide a guaranteed price or any specifics on how the contracted grain was to be marketed or delivered. The agreement also did not specify a custodial guardian.

Therefore, the arbitrators concluded that the terms of the marketing agreement were satisfied and that CoMark acted properly by mitigating damages on the soybean portion of the agreement. The arbitrators noted that no documentation was provided that showed the values used to calculate cancellation of the soybeans, and that the cancellation value was not disputed by the parties.

The arbitrators, therefore, denied the claims of Peters against CoMark.

The Award

The arbitrators denied Richard L. Peters' claim of \$42,842 against CoMark, and declined to grant any award.

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

Jay R. Nelson, Chair
Director of Origination
Heartland Co-op
West Des Moines, Iowa

John I. Stoneburner
General Manager
New Generation Co-op Inc.
Arlington, Ohio

Steve Young
Grain Merchandiser
Holyoke Cooperative Association
Holyoke, Colo.

Arbitration Appeals Case Number 2124

Appellant: **Richard L. Peters, Trilla, III.**

Appellee: **Cooperative Marketing Alliance, Memphis, Tenn.**

The Decision

This Arbitration Appeals Committee, individually and collectively, reviewed all evidence submitted in Arbitration Appeals Case Number 2124; and also reviewed the decision and the award of the original Arbitration Committee.

This Arbitration Appeals Committee unanimously affirmed the decision and the award of the original Arbitration Committee in favor of the Defendant/Appellee, Cooperative Marketing Alliance.

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

Philip L. Hageman, *Chair*
Hageman & Associates, LLC
Surprise, Ariz.

Jeffrey Edwards
Vice President
J&J Commodities
Greenville, N.C.

Chuck Elsea
Senior Vice President
The Scoular Co.
Salina, Kans.

Roger Krueger
Director, Grain Marketing
South Dakota Wheat Growers Association
Aberdeen, S.D.

Donald W. Wenneker
Director of Procurement
Tate and Lyle Ingredients Americas Inc.
Decatur, Ill.