



National Grain and Feed Association

Arbitration Decision

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December 4, 2008

Arbitration Case Number 2251

Plaintiff: Bunge North America, Inc., St. Louis, Mo.

Defendant: Rick Langston d/b/a Langston Farms, Searcy, Ark.

Factual and Procedural Background

The plaintiff, Bunge North America, Inc. (Bunge), requested the entry of a default judgment in the amount of \$36,950.00 against the defendant, Rick Langston d/b/a Langston Farms (Langston). The default judgment was granted for the reasons set forth below.

Bunge submitted an arbitration complaint dated April 18, 2008 to the National Grain and Feed Association (NGFA). The complaint alleged that Langston failed to perform on duly signed Bunge contract nos. 98477, 98511, 98522, 98606, and 98804 for delivery of #2 soft red winter wheat.

The contracts all stated that they were, "SUBJECT TO RULES OF: NATIONAL GRAIN AND FEED ASSOCIATION." (Emphasis in original). The contracts also contained the following provision under "GENERAL TERMS":

The terms of this confirmation are subject in all respects to the rules and regulations of the exchange, board, or association designated above. If Seller is not a member of the said exchange, board or association, then the rules and regulations of the National Grain and Feed Association shall govern. Buyer and Seller agree that all disputes and controversies between them with respect to this confirmation shall be arbitrated according to said rules and regulation, and that judgment may be entered on the arbitration award in any court of competent jurisdiction.

Acting upon Bunge's complaint, the NGFA prepared an arbitration services contract and submitted it to Bunge for execution. By certified mail dated May 16, 2008, the NGFA also sent to Langston a letter providing notice of these proceedings with copies of Bunge's complaint and attachments, as well as the NGFA Trade Rules and Arbitration Rules. The certified mail return receipt confirmed that this mailing to Langston was signed for and received on May 22, 2008.

Upon receipt of the duly executed arbitration services contract from Bunge, the NGFA then sent it with accompanying correspondence to Langston by certified mail on June 11, 2008. This certified mailing was returned unclaimed.

On July 18, 2008, the NGFA sent Langston another copy of the contract with accompanying correspondence by Federal Express delivery. Federal Express confirmed that this mailing was delivered on July 22, 2008. The NGFA's letters of June 11, 2008 and July 18, 2008 to Langston specifically provided notice that Sections 5(c) and (d) of the NGFA Arbitration Rules required that the signed contract be returned within fifteen (15) days.

After still not receiving any response from Langston, or any indication that a response was forthcoming, the NGFA sent yet another notice to Langston on September 8, 2008 by Federal Express delivery. This notice further specifically stated as follows:

NGFA Arbitration Rules 5(d) and (e) provide for the entry of a default judgment when a party fails to execute the arbitration contract and pay the service fee within fifteen (15) days. Based upon the lack of any response from you thus far, we must anticipate that you do not intend to respond. ***This is our last attempt to elicit a response from you. A default judgment may be entered against you at any time, which the Plaintiff may enforce in a court of law.*** [Emphasis in original].

Federal Express confirmed that this mailing was delivered to Langston on September 10, 2008.

The NGFA has yet to receive an executed arbitration services contract from Langston, despite the repeated attempts by NGFA to contact him.

Default Judgment

The NGFA established jurisdiction over this matter pursuant to the express terms of contracts and by way of Bunge's status as a NGFA active member.

Bunge properly and in a timely manner filed its complaint under NGFA Arbitration Rules Section 5(a). Pursuant to Section 5(b), the NGFA then submitted an arbitration services contract to the parties. Section 5(d) states that, "it shall be the duty of both parties to complete the contract for arbitration within fifteen (15) days from the date the party receives the contract from the National Secretary." Bunge properly executed and returned the arbitration services contract. Langston refused to comply with the NGFA Arbitration Rules, and refused to respond to any arbitration-related mailings.

NGFA Arbitration Rule Section 5(e) provides for the following:

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.

As it appears that Rick Langston d/b/a Langston Farms made a conscious decision to disregard these arbitration proceedings, pursuant to Section 5(e) of the NGFA Arbitration Rules, the National Secretary finds that entry of default judgment against Rick Langston d/b/a Langston Farms is proper and warranted.

Therefore, on October 23, 2008, the NGFA entered a default judgement against the defendant. The defendant was also advised that NGFA Arbitration Rule Section 5(e) sets forth the requirements and conditions under which, "[a]ny party against whom a default judgment has been entered under this provision may apply for vacation of the default judgment within fifteen (15) days of entry of the default judgment." In this case, the defendant did not apply to vacate the default judgement pursuant to Section 5(e).

The Award

THEREFORE, IT IS ORDERED THAT:

1. Bunge North America, Inc. is awarded judgment against Rick Langston d/b/a Langston Farms for \$36,950.00.
2. Interest on the judgment shall accrue at the statutory rate available for judgments in the applicable jurisdiction from this date until paid in full.

Dated: October 23, 2008

NATIONAL GRAIN AND FEED ASSOCIATION

By: Charles M. Delacruz
National Secretary