



National Grain and Feed Association

# Arbitration Decision

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April 4, 2013

## Arbitration Case Number 2541

**Plaintiff: DeBruce Grain Inc., Kansas City, Mo.**

**Defendant: Roosevelt Jones, Shelby, Miss.**

### Statement of the Case

This case involved a dispute between DeBruce Grain Inc. (DeBruce) and Roosevelt Jones (Jones) emerging from a difference of opinion on whether or not a contract existed between the two parties for delivery of 10,000 bushels of U.S. No. 1 yellow soybeans at \$9 per bushel to DeBruce's facility at Rosedale, Miss., with a delivery period between Oct. 1 and Nov. 30, 2010 (DeBruce contract no. PS5612474).

Both DeBruce and Jones acknowledged having enjoyed a prior history of doing business together.

DeBruce issued contract no. PS5612474 on Feb. 19, 2010. DeBruce stated that on May 5, 2010, a telephone conversation occurred between its representative and Jones during which Jones acknowledged receipt of contract no. PS5612474. On July 7, 2010, DeBruce entered into a separate contract—contract no. PW5612969 – with Jones for 5,000 bushels of U.S. no. 2 soft red wheat at \$5.71 per bushel for delivery between June 1 and July 31, 2011. DeBruce claimed that another telephone conversation occurred with Jones on Oct. 14, 2010, during which Jones acknowledged receipt of both contracts.

Jones signed and dated contract no. PW5612969 on Feb. 10, 2011. With respect to contract no. PS5612474, however, Jones argued that he had never agreed to it and he denied that the phone calls occurred during which DeBruce alleged Jones had acknowledged this contract.

DeBruce claimed to have made several attempts to contact Jones regarding the disputed contract in October 2010. A telephone conversation between DeBruce employees and Jones occurred on Oct. 22. During that conversation, Jones stated that there was no contract for delivery of soybeans. On Oct. 25, DeBruce sent a letter to Jones stating DeBruce's position that Jones must deliver the soybeans before Nov. 5, or be deemed in default of the contract. On Oct. 26, Jones' attorney sent a letter to DeBruce arguing the contract did not exist.

On Nov. 8, 2010, DeBruce canceled contract number PS5612474 and claimed damages of \$38,475.

During the first week of June 2011, Jones delivered 5,000 bushels of U.S. no. 2 soft red wheat to DeBruce's Rosedale location pursuant to contract no. PW5612969. DeBruce withheld proceeds from the sale under contract no. PW5612969 in the amount of \$31,140.39 to offset partially the balance that DeBruce claimed it was owed under contract no. PS5612474.

In this arbitration case, DeBruce claimed \$7,335 in damages remaining as a result of the alleged soybean contract default. Jones claimed that soybean contract no. PS5612474 should be nullified and the proceeds from wheat contract no. PW5612969 be paid to him.

### The Decision

After a complete and extensive review of the arguments and documentation submitted by both parties, the arbitrators deter-

mined that DeBruce's claims were valid and Jones' positions were not supported.

The arbitrators determined that the contract was valid, as it addressed the requirements in NGFA Grain Trade Rule 1, including specifying a contract date, quantity, kind, price, delivery period, location and payment terms. The arbitrators noted a discrepancy in the remarks section of contract no. PS5612474 between the copies of the contract submitted from the two parties. However, the arbitrators concluded that the discrepancy was minor and inconsequential to this case.

The arbitrators also determined that the address of record for Jones relied upon by DeBruce was valid, as previous contracts had been received, acknowledged and performed upon between

the two parties using that address. Further, the arbitrators concluded that pursuant to NGFA Grain Trade Rule 3(a) and (b), Jones failed to dispute the contract issued by DeBruce – or issue his own contract – within the appropriate time frame.

In addition, the arbitrators referred in particular to paragraph 11(f) in “Additional Terms and Conditions” of contract no. PS5612474, which stated that the buyer had the right to terminate the contract upon notification from the seller that he did not intend to perform. The arbitrators determined that the phone conversation on Oct. 22, 2010 satisfied this condition, and that DeBruce appropriately canceled the contract accordingly.

## The Award

Therefore, the arbitrators awarded \$7,334.61 to DeBruce based upon the following calculations:

10,000	\$ 9.0000	\$ 90,000.00	PS5612474
(10,000)	\$12.8475	<u>\$(128,475.00)</u>	SS5612474-C
		\$ (38,475.00)	Market difference
		\$ 31,140.39	PW5612696
		<u>\$(7,334.61)</u>	Net Difference

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

**Kevin Gray, Chair**  
 Marketing and Operations Manager, Grain Division  
 AgVantage FS  
 Monticello, Iowa

**Zachary Beaudry**  
 General Manager  
 Hallock Cooperative Elevator Co.  
 Hallock, Minn.

**Lynn Krueger**  
 Manager of U.S. Purchasing Commodities  
 Corn Products International Inc.  
 Westchester, Ill.