



# National Grain and Feed Association Arbitration Decision

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June 30, 2023

## CASE NUMBER 2975

**PLAINTIFF: VISERION GRAIN, LLC, MCGREGOR, IA**

**DEFENDANT: PAUL REGAN AND MAURY REGAN, WAUKON, IA**

### FACTUAL AND PROCEDURAL BACKGROUND

The plaintiff, Viserion, LLC (Viserion), requested the entry of a default judgment in the amount of \$58,400 against the defendants, Paul Regan and Maury Regan. The default judgment is granted for the reasons set forth below.

Viserion submitted an arbitration complaint dated February 4, 2022, to the National Grain and Feed Association (NGFA). The complaint alleged that Paul and Maury Regan failed to perform on contracts 901054, 955361, 901051 and 955289 for U.S. #1 yellow soybeans.

The contracts stated “Trade Association: NGFA” and “THIS CONTRACT CONTAINS BINDING ARBITRATION PROVISIONS” (emphasis in original).

The contracts further stated under paragraph 13 of the “General Terms and Conditions” as follows:

Arbitration; Governing Law; Code of Conduct. Except as otherwise provided herein, this Contract incorporates by reference the rules of the Trade Association, as amended from time to time, specified on the face of this contract (if any), and to the extent not in conflict with this Contract or with said rules, to the Uniform Commercial Code. To the extent of any conflict or inconsistency between such rules and this Contract, this Contract shall prevail. Seller acknowledges the applicability of said rules and that a copy of said rules is available to Seller. Buyer and Seller agree that all disagreements, disputes and controversies of any nature whatsoever between them with respect to this Contract shall be arbitrated pursuant to the Trade Association’s Arbitration Rules, that the decision and award determined thereunder shall be final and binding on Buyer and Seller, and that judgment thereon may be entered and enforced by any court of competent jurisdiction. ...

Paul Regan signed contract 901054 on or before December 8, 2020; contract 955361 subsequently resulted pursuant to the terms of contract 901054. Maury Regan signed contract 901051 on or before December 8, 2020; contract 955289 subsequently resulted pursuant to the terms of contract 901051.

Acting upon Viserion’s complaint, NGFA prepared an arbitration services contract and submitted it to Viserion for execution. By Federal Express dated February 16, 2022, NGFA also sent to Paul and Maury Regan a letter providing notice of these proceedings with copies of Viserion’s complaint and attachments, as well as the NGFA Trade Rules and Arbitration Rules. Federal Express confirmed that this mailing to Paul and Maury Regan was delivered on February 21, 2022.

Upon receipt of the duly executed arbitration services contract from Viserion, NGFA then sent it with accompanying correspondence to Paul and Maury Regan by Federal Express on March 3, 2022. Federal Express confirmed that this mailing to Paul and Maury Regan was delivered on March 7, 2022.

On June 3, 2022, NGFA sent to Paul and Maury Regan another letter by Federal Express. Federal Express confirmed this mailing was delivered on June 27, 2022. NGFA's letters of March 3 and June 3, 2022, to Paul and Maury Regan specifically provided notice that Rule 2(E) of the NGFA Arbitration Rules required that the signed contract be returned within fifteen (15) days.

Maury Regan telephoned NGFA on June 29, 2022, and indicated in a voice message that the parties had resolved some of these claims and were working to resolve others of these claims. NGFA returned the call the same day and left a voice message for Maury Regan. NGFA, also on June 29, 2022, notified Viserion of Maury Regan's message.

Viserion notified NGFA on October 10, 2022, that settlement had not been reached and the case was still active. As such, NGFA sent another letter to Regan on October 19, 2022, by Federal Express. This notice further specifically stated as follows:

NGFA Arbitration Rules 2(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. ***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 Paul and Maury Regan on November 1, 2022.

NGFA has yet to receive an executed arbitration services contract from Paul or Maury Regan, despite the repeated attempts by NGFA to contact them.

## DEFAULT JUDGMENT

NGFA established jurisdiction over this matter pursuant to the express terms of the contract and by way of Viserion's status as an NGFA active member.

Viserion properly and in a timely manner filed its complaint under NGFA Arbitration Rule 2(A). Pursuant to Rule 2(B), NGFA then submitted an arbitration services contract to the parties. Rule 2(D) states that, "Each party must return the completed arbitration services contract within 15 days from the date the party receives it from the NGFA Secretary." Viserion properly executed and returned the arbitration services contract. Paul and Maury Regan refused to comply with the NGFA Arbitration Rules and refused to participate in the NGFA arbitration process.

NGFA Arbitration Rule 2(E) provides for the following:

Where a party fails to execute the arbitration services contract or pay the arbitration services fee, the NGFA Secretary may without further submissions by the parties enter a default judgment or such other relief as the NGFA Secretary deems appropriate.

As it appears that Paul and Maury Regan made a conscious decision to disregard these arbitration proceedings, pursuant to Rule 2(E) of the NGFA Arbitration Rules, the NGFA Secretary finds that entry of default judgment against Paul and Maury Regan is proper and warranted.

NGFA Arbitration Rule 2(E) also sets forth the requirements and conditions under which, “[a]ny party against whom a default judgment has been entered may apply to vacate the default judgment within 15 days of entry of the default judgment.” Further, NGFA Arbitration Rule 7 provides that a default judgment issued by the NGFA Secretary shall be final unless properly and timely appealed by either party.

<b>THE AWARD</b>
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**THEREFORE, IT IS ORDERED THAT:**

1. Viserion Grain, LLC is awarded judgments each against Paul Regan in the amount of \$29,200 and against Maury Regan in the amount of \$29,200
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. This award is not intended to preclude the plaintiff from pursuing an additional award for interest, legal fees or costs in a court of law.

Dated: May 19, 2023\*

**NATIONAL GRAIN AND FEED ASSOCIATION**

By: Charles M. Delacruz  
NGFA Secretary

\* On May 19, 2023, NGFA entered the default judgment against the defendant. The defendant was advised regarding the procedures for applying to vacate the default judgment, but the defendant did not apply to vacate the default judgment.