Lex Infinitum 2019

Final Round

“Stolen Steel”

Durden Industries vs. Smelt Co Mining

General Information

Durden Industries is a steel producer specializing in items for the shipping and rail transportation industries. A recent economic boom in several countries has created an increased need for steel shipping containers. In order to meet demand, Durden began retooling one of its non-shipping focused plants, spending over $5,000,000 USD on capital improvements.

The sudden increase in demand also meant that a new supplier of ore would need to be located in order to keep Durden’s mills fully stocked and operational. A decision was made to use SmeltCo Mining, a multinational corporation with mines located on several continents. While the two companies had never done business in the past, SmeltCo had a very good reputation of being a reliable supplier. The close proximity of SmeltCo’s mining operations in the country of Ayrand also made sense geographically, as Durden had smelting mills in the neighboring country of Dyrand, which would help keep shipping costs lower.

A contract between Durden and SmeltCo was finalized and provided for the delivery of 400,000 tons of ore at a purchase price of $60 USD per ton, and a shipping cost of $13 USD per ton, for a final delivered price of $29,200,000 USD. Delivery of the purchased ore was scheduled to begin within 90 days of the signing of the contract. The total order was to be delivered within 180 days of the signing of the contract. Sixty days after the contract was signed, SmeltCo delivered 80,000 tons of ore to mills in Dyrand with no issues at all and the promise of another shipment of 80,000 tons within 30 days, and every 30 days after that until the contract was fully executed.

Before the second shipment could be sent, the government of Ayrand stepped in and nationalized SmeltCo’s ore mines, shutting down SmeltCo’s operations in the country of Ayrand. The loss of those mines created a problem for SmeltCo because their other mines were not located on the same continent. The estimated shipping costs to fulfill the order from other locations would triple. Fifteen days after the first shipment, SmeltCo notified Durden that due to the unforeseen change in circumstances they would be unable to fulfill the contract at the agreed upon date and price. SmeltCo also offered to fulfill the contract using other reliable sources, but the new cost, including shipping would be $39,600,000 USD. Durden refused the offer and considered the contract terminated. Instead, Durden made new contract.

several smaller mining operations, ultimately spending $35,500,000 USD to source the ore needed for Durden's operations. Durden also refused to make any payment for the only shipment it received from SmeltCo, claiming the payment was forfeited when SmeltCo breached the contract.

SmeltCo has filed a lawsuit against Durden for breach of contract and is claiming $6,000,000 USD for the one shipment of ore they delivered, plus $200,000 USD in legal fees. Durden has filed a counter claim and is demanding $6,300,000 USD in damages, which they calculated as the difference in the original contract price and the total amount spent sourcing ore from other suppliers. Durden claimed an additional $500,000 in legal fees.

The parties heard about mediation and decided to try it in an effort to avoid costly litigation. Durden Industries is represented by Terry Durden and the company's chief legal counsel, Jordan Knight. SmeltCo is represented by CEO McKenzie Dinich and lead counsel Avery Westbrook.