

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D29271  
W/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - October 26, 2010

WILLIAM F. MASTRO, J.P.  
RUTH C. BALKIN  
RANDALL T. ENG  
L. PRISCILLA HALL, JJ.

2009-08228

DECISION & ORDER

In the Matter of FIA Card Services, N.A., formerly known as MBNA America Bank, N.A., respondent, v Karen A. Hamilton, appellant.

(Index No. 24509/07)

Hopkins Law Group, LLC, Springfield Gardens, N.Y. (Everett Hopkins of counsel),  
for appellant.

In a proceeding pursuant to CPLR article 75 to confirm an arbitration award dated October 25, 2006, the appeal is from an order of the Supreme Court, Queens County (Siegal, J.), entered July 1, 2009, which granted the petition.

ORDERED that the order is affirmed, without costs or disbursements.

We agree with the Supreme Court that a notice of arbitration was properly served upon the appellant by common carrier in accordance with the rules of the arbitration forum and CPLR article 75. The appellant's conclusory assertion that she never received the notice was insufficient to rebut the presumption of receipt created by a signed United Parcel Service delivery notification (*see Matter of Fodor v MBNA Am. Bank, N.A.*, 34 AD3d 473, 474; *Matter of State Farm Mut. Auto. Ins. Co. [Kankam]*, 3 AD3d 418, 419).

Further, contrary to the appellant's contentions, the petitioner established that a binding agreement to arbitrate was in effect between the parties (*see Matter of Fodor v MBNA Am. Bank, N.A.*, 34 AD3d at 474; *Tsadilas v Providian Natl. Bank*, 13 AD3d 190). Moreover, the

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appellant has not alleged any of the other grounds under CPLR 7511(b) for vacatur of the award.

The appellant's remaining contentions are without merit.

Accordingly, the Supreme Court properly confirmed the arbitration award.

MASTRO, J.P., BALKIN, ENG and HALL, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court