

Rubin Films, LLC v Kaul
2017 NY Slip Op 32726(U)
December 20, 2017
Supreme Court, New York County
Docket Number: 651878/2015
Judge: Erika M. Edwards
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

RUBIN FILMS, LLC,

Index No.: 651878/2015

Petitioner,

DECISION/ORDER

-against-

Motion Seq.: 013, 014

AMITAV KAUL and IOM FILM LLC,

Respondents.

Recitation, as required by CPLR 2219(a), of the papers considered in the review of this motion:

Papers	Numbered
Notice of Motion and Affidavits/Affirmations Annexed	1, 4
Answering Affidavits/Affirmations	2, 5
Reply Affirmation	3

ERIKA M. EDWARDS, J.:

Petitioner Rubin Films, LLC (“Petitioner”) now moves under motion sequence 013 for an order punishing Respondents Amitav Kaul (“Kaul”) and IOM Film LLC (“IOM”) (collectively “Respondents”) for civil contempt, pursuant to Judiciary Law § 753(A)(1) and 774(1) for Respondents’ failure to comply with an Injunction, two Contempt Orders and/or a Restraining Order by imposing fines against each Respondent in the amount of Petitioner’s costs, disbursements and attorney’s fees arising from or in connection with Respondents’ contempt and by imprisoning Kaul until each Respondent complies with the requirements set forth in the Injunction and Restraining Order. Respondents move for an order vacating or confirming the final arbitration award, dated June 29, 2015, under motion sequence 014. These motions are consolidated for purposes of this decision.

For the reasons set forth herein, the court grants Petitioner's motion in part to the extent that the court punishes each Respondent for civil contempt for their failure to comply with the court's directives in the court's Restraining Order, dated June 25, 2015 (motion sequence number 002) and two Contempt Orders, dated August 5, 2016 (motion sequence number 006) and October 4, 2016 (motion sequence number 009) in the amount of the costs, disbursements and attorney's fees incurred by Petitioner arising from or in connection with Respondents' contempt, to the extent such fees and costs were not previously imposed upon Respondents or Respondents' counsel. The court declines to imprison Respondent Kaul at this time. Additionally, the court denies Respondents' motion to vacate or confirm the arbitration award.

The court finds that Respondents have repeatedly and willfully disobeyed court orders related to a previous arbitration award by failing to transfer Petitioner's \$2 million account from an overseas location to a New York City based bank or commercial escrow agent and by failing to produce the documents required in the court's Restraining Order, including "all documents evidencing the location and amount of all funds held by Respondents from and after October 18, 2011 to the date of production, such documents to be produced in native format with metadata, such production to take place on or before July 3, 2015 . . ." Clearly, Respondents disobeyed the court's Restraining Order, dated June 25, 2015 (motion sequence number 002) and two Contempt Orders, dated August 5, 2016 (motion sequence number 006) and October 4, 2016 (motion sequence number 009), respectively. Therefore, the court punishes Respondents for their disobedience to a lawful mandate of the court, pursuant to Judiciary Law § 753(A), by imposing fines against each Respondent in the amount of Petitioner's costs, disbursements and attorney's fees arising from or in connection with Respondents' contempt, for the time periods and amounts

of such fees and costs which were not previously imposed against Respondents or Respondents' counsel in the court's previous order(s).

In a final award, dated June 29, 2015, the arbitrator awarded Petitioner \$2 million, plus fees and costs of \$470,290.47. Respondents move to vacate or confirm the award arguing that they wish to file a combined appeal because of Respondents' lack of resources and in the interest of judicial economy. However, each motion must stand on its own and include all relevant exhibits and materials that the movant wishes to be considered by the court. Here, it is unclear whether Respondents are arguing for the court to reconsider its previous decisions related to Petitioner's prior motion to confirm the arbitration award and Respondents' prior motion to vacate the arbitration award, which would effectively overrule the court's previous rulings to confirm the award and subsequent withdrawal of its decision, or whether Respondents are currently advocating for the court to either vacate or confirm the award de novo. Either way, Respondents failed to make any substantive arguments in support of vacating or confirming the award and Respondents failed to provide copies of the arbitration award, previous notice of motions, affirmations, affidavits, memoranda of law or previous court decisions related to this matter. The court will not search the record by reviewing documents related to twelve (12) previous motions and the entire case file to attempt to locate documents to support the movant's arguments. As such, the court denies Respondents' motion to vacate or confirm the arbitration award.

As such it is hereby

ORDERED that Petitioner Rubin Films, LLC's motion to punish Respondents Amitav Kaul and IOM Film LLC for civil contempt under motion sequence 013 is granted in part to the extent that the court punishes both Respondents for disobeying the court's Restraining Order,

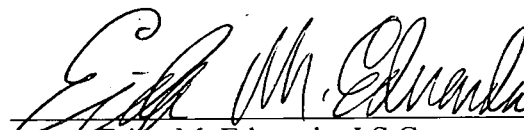
dated June 25, 2015 (motion sequence number 002) and two Contempt Orders, dated August 5, 2016 (motion sequence number 006) and October 4, 2016 (motion sequence number 009), respectively; the court imposes fines against Respondents in the amount of Petitioner's costs, disbursements and attorney's fees arising from or in connection with Respondents' contempt for the time periods and amounts of such fees and costs which were not previously imposed against Respondents or Respondents' counsel in the court's previous order(s); and it is further

ORDERED that Petitioner must serve and file written billing statements/invoices for the applicable time period on or before January 22, 2018, Respondents shall serve responsive papers, if any, on or before February 12, 2018, Petitioner shall serve reply papers, if any, on or before February 19, 2018, and the parties must appear for oral argument before the court on March 1, 2018, at 9:30 a.m., in Part 47; and it is further

ORDERED that Respondents Amitav Kaul's and IOM Film LLC's motion for an order vacating or confirming the June 29, 2015 arbitration award under motion sequence 014 is denied.

This constitutes the decision and order of the court.

Date: December 20, 2017


Erika M. Edwards, J.S.C.