

Fifth Quadrant Analytics, LLC v Donovan
2020 NY Slip Op 31843(U)
June 8, 2020
Supreme Court, New York County
Docket Number: 654893/2018
Judge: Debra A. James
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. DEBRA A. JAMES PART IAS MOTION 59EFM

Justice

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INDEX NO. 654893/2018

FIFTH QUADRANT ANALYTICS, LLC and BRIAN
DAWSON,

MOTION DATE _____

Petitioners,

MOTION SEQ. NO. 001 002

- v -

RICHARD DONOVAN,

**DECISION + ORDER ON
MOTION**

Respondent.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 3, 7, 8, 26, 27, 28, 29, 30, 31

were read on this motion to/for CONFIRM/DISAPPROVE AWARD/REPORT.

The following e-filed documents, listed by NYSCEF document number (Motion 002) 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25

were read on this motion to/for DISMISSAL.

ORDER

Upon the foregoing documents, it is

ORDERED that respondent's motion to dismiss is DENIED; and
it is further

ORDERED and ADJUDGED that the petition is granted and the
award is confirmed; and it is further

ADJUDGED and DECLARED that Petitioner Brian Dawson owns 49%
of the equity ownership of WingSail and Fifth Quadrant Analytics,
LLC; and it is further

ORDERED that Richard Donovan is ordered to notify Barclays
within 15 days of the issuance of this Award that the Barclays

Agreements are to be amended to include Fifth Quadrant Analytics, LLC as a party; and it is further

ORDERED that any communications under the Barclays Agreements to or from Richard Donovan or Donovan Group are to be sent simultaneously to Fifth Quadrant Analytics, LLC, and any payments made by Barclays under the Barclays Agreements are to be divided equally between Donovan Group and Fifth Quadrant Analytics, LLC; and it is further

ORDERED and ADJUDGED that petitioner Fifth Quadrant Analytics, LLC, does recover from respondent Richard Donovan, the amount of \$ 79,355.70, plus interest at the rate of 6 % per annum from the date of July 26, 2017, as computed by the Clerk in the amount of \$ _____; and it is further

ADJUDGED that petitioners do recover from respondent the amount of \$ 59,250.06, plus interest at the statutory rate from the date of the entry of judgment as computed by the Clerk in the amount of \$ _____, representing such part of the administrative fees and expenses of arbitration in excess of the apportioned fees and expenses previously incurred and paid by petitioners, together with costs and disbursements in the amount of \$ _____ as taxed by the Clerk, for the total amount of \$ _____, and that the petitioners have execution therefor.

DECISION

Petitioners move to confirm an arbitration award dated July 26, 2017. Respondent pro se moves to dismiss the petition.

CPLR 7510 provides that the "court shall confirm an award upon application of a party made within one year after its delivery to him, unless the award is vacated or modified upon a ground specified in section 7511." The grounds for setting aside "an arbitrator's award as set forth in CPLR 7511(b) are few in number and are narrowly applied. Only if a party's rights were prejudiced by corruption, fraud or misconduct (CPLR 7511[b][1] [i]), bias (subpara. [ii]), excess of power (subpara [iii]) or procedural defects (subpara [iv]) should an award be vacated. For the same reason, the invocation of public policy concerns to justify a court's usurping the role of an arbitrator and determining a dispute on the merits is also limited." Azrielant v Azrielant, 301 AD2d 269, 275-76 (1st Dept., 2002) (citation and internal quotation omitted).

While attempting to revive arguments made before the arbitrator, respondent, in opposition to confirmation, fails to raise any of the CPLR 7511(b) grounds. The court shall therefore grant the motion to confirm the award.

6/8/2020
DATE

Debra A. James
DEBRA A. JAMES, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE