Quinn Emanuel Urquhart & Sullivan, LLP v Rtskhiladze
2021 NY Slip Op 31898(U)
June 3, 2021
Supreme Court, New York County
Docket Number: 656162/2020
Judge: Carol R. Edmead
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. CAROL R. EDMEAD **PART** **IAS MOTION 35EFM**

Justice

---X

QUINN EMANUEL URQUHART & SULLIVAN, LLP

Plaintiff,

- v -

GIORGI RTSKHILADZE,

Defendant.

---X

INDEX NO. 656162/2020

MOTION DATE 11/10/2020

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46

were read on this motion to/for MISCELLANEOUS.

Upon the foregoing documents, it is

ORDERED that the petition of Quinn Emanuel Urquhart & Sullivan LLP (Motion Seq. 001) for the confirmation of the "Stipulated Consent Award" dated June 11, 2020 entered in JAMS Arbitration No. 1410008026, pursuant to CPLR 7510, is granted in full; and it is further

ORDERED that Petitioner recovers of Respondent the sum of $49,246.96, and that the Clerk of the Court is directed to enter judgment therefore, along with post-judgment interest at the statutory rate of 9%, plus costs and disbursements, to be calculated by the Clerk; and it is further

ORDERED that counsel for Petitioner shall serve a copy of this order, along with notice of entry, on all parties within 20 days of entry.

MEMORANDUM DECISION

In this Article 75 action, Petitioner Quinn Emanuel Urquhart & Sullivan LLP seeks an order: (i) confirming the "Stipulated Consent Award" dated June 11, 2020 (the "Award") entered in JAMS Arbitration No. 1410008026 (the "Arbitration"); and (ii) awarding Petitioner $49,246.96, plus interests and fees. Respondent Giorgi Rtskhiladze opposes and seeks an order denying the petition. For the reasons set forth below, the Court grants the petition and confirms the Award.

BACKGROUND FACTS

Petitioner alleges that from April 2018 through June 2018, it provided legal services to Respondent pursuant to a written Retainer Agreement dated April 9, 2018 (the "Retainer Agreement; NYSCEF doc No. 4). The Retainer Agreement contains an arbitration procedure under the rules of JAMS in case of a fee dispute between the parties (*Id.*, pp. 8-10).

Petitioner claims that Respondent failed to pay its invoices for legal fees and therefore commenced the Arbitration on January 8, 2019. Respondent proposed to settle the dispute, offering to pay $35,000 in legal fees payable on or before January 30, 2020; Petitioner accepted (NYSCEF doc Nos. 23-24; the "2019 Settlement Agreement").

The arbitration was put "on hold" pending Respondent's payment but Respondent failed to pay. Thus, on February 2020, Petitioner requested to reopen the arbitration proceedings to which Respondent objected, maintaining that at that time he was under very difficult personal and business circumstances, including a death of a friend (NYSCEF doc No. 32).

The panel of arbitrators (the "Panel of Arbitrators") reopened the Arbitration and scheduled it for hearing on June 9, 2020. Around the hearing date, however, the parties were able to enter into another settlement agreement (the "2020 Settlement Agreement") which they agreed would constitute a consent award in the Arbitration. Accordingly, the Panel of Arbitrators issued the

Award, memorializing the parties' agreement for Respondent to pay Petitioner $35,000 by October 1, 2020 or, the original outstanding amount of $49,246.96 if Respondent failed to comply (NYSCEF doc No. 3, pars. 3-4).

Respondent failed to pay in accordance with the terms of the Award. Thus, Petitioner now seeks to confirm the Award pursuant to CPLR 7510. Respondent opposes, arguing that he was "rushed into making critical decisions without legal representation" during the JAMS Arbitration; that JAMS "was heavily favoring [Petitioner's] position" and that Petitioner was guilty of "serious failures in providing legal representation to [him]" (NYSCEF doc No. 12). In Reply, Petitioner maintains that Respondent's arguments are factually baseless and state no basis to vacate or modify an arbitration award under CPLR 7511 (NYSCEF doc No. 13).[1]

DISCUSSION

CPLR 7510 provides that the "court shall confirm an award upon application of a party made within one year after its delivery to [it], unless the award is vacated or modified upon a ground specified in section 7511."

CPLR 7511, in turn, states in part that an "award shall be vacated on the application of a party who either participated in the arbitration or was served with a notice of intention to arbitrate if the court finds that the rights of that party were prejudiced by: (i) corruption, fraud or misconduct in procuring the award; or (ii) partiality of an arbitrator appointed as a neutral, except where the award was by confession; or (iii) an arbitrator, or agency or person making the award exceeded his power or so imperfectly executed it that a final and definite award upon the subject matter submitted was not made; or (iv) failure to follow the procedure of this article, unless the party

[1] This Court shall not consider Respondent's Sur-Reply (NSYCEF doc No. 46). In an Interim Order dated January 8, 2021, this Court directed that this matter shall be deemed fully submitted and resolved by written decision upon submission of Petitioner's Reply.

applying to vacate the award continued with the arbitration with notice of the defect and without objection."

While Respondent here does not seek vacatur of the Award, this Court shall consider his opposition to Petitioner's application for confirmation through the lens of CPLR 7511.

Allegations of Undue Pressure

Respondent first alleges that during the Arbitration, he was appearing as a witness in a high-profile Federal case "which took an enormous financial and emotional toll on [him] and [his] family." (NYSCEF doc No. 12, ¶8). Thus, Respondent claims that he "simply couldn't focus nor afford retaining additional counsel to represent [him] in the JAMS [A]rbitration…" (*Id.*) Respondent further claims that COVID-19 compounded his situation that he "wasn't able to think straight." (*Id.*, ¶10). Thus, Respondent maintains that he agreed to the 2020 Settlement Agreement "under pressure." (NYSCEF doc No. 12, ¶10)

Petitioner contends that Respondent's allegations are baseless. According to Petitioner, both Petitioner and Respondent had to deal with deadlines in the Arbitration, "some of which [dates] Respondent himself chose." Petitioner also maintains that "every settlement [] reached included payment amount and terms wholly dictated by Respondent." (NSYCEF doc No. 13, p. 6)

This Court has reviewed the record and finds Respondent's claim of "undue pressure" baseless. The email exchanges between Petitioner and Respondent do not suggest that Respondent was "under pressure" to execute the 2020 Settlement Agreement. Although Respondent stated that he was signing it "only because [he] want[ed] to maintain relationship with [Petitioner]," Respondent could have chosen to proceed with the Arbitration hearings instead. What is clear to this Court is that Respondent wanted to settle the case as, over the course of the Arbitration, he stated that "arbitration could be a long and expensive process and maybe unnecessary" (NYSCEF

doc No. 22) and "because win or lose there's no question that the arbitration process will require time & resources from both parties." (NYSCEF doc No. 23)

In any event, even if Respondent were indeed "under pressure" during the Arbitration, it is unfortunately not one of the grounds to vacate the award under CPLR 7511. There have been cases in the past involving more serious allegations of pressure but were nonetheless considered insufficient to support vacatur of arbitration awards (*see e.g.*, *Berg v Berg*, 20 Misc 3d 1142 (A), *aff'd*, 85 AD3d 950 [2d Dept 2011] where the court held that "the threat of a *siruv*, which entails a type of ostracism from the religious community, and which is prescribed as an enforcement mechanism by the religious law to which the petitioner freely adheres, cannot be deemed 'duress'" so as to vacate the award in that case).

Allegations of Partiality

Respondent next argues that confirmation of the Award should be denied as the Panel of Arbitrators was "heavily favoring [Petitioner's] position."

While Petitioner does not address this allegation in its Reply, this Court finds this allegation as having no basis in the record. Aside from Respondent's conclusory statement, there is nothing in the record which suggests partiality on the part of the Panel of Arbitrators, especially considering that the Award merely memorialized the 2020 Settlement entered into by Petitioner and Respondent.

"[B]ecause of limited review [of an arbitration award], the 'showing required to avoid [its] summary confirmation [] is high [] and a party moving to vacate the award has the burden of proof.'" (*Roffler v Spear, Leeds & Kellogg*, 13 AD3d 308 [1st Dept 2004]) Here, Respondent failed to meet his burden.

Respondent's Pro Se Status

Respondent then pleads that this Court should deny confirmation of the Award as Respondent appeared *pro se* in the Arbitration (NYSCEF doc No. 12, ¶9 and 12).

Petitioner argues that "Respondent has repeatedly referred to attorneys assisting him with this collections matter, including in his Opposition [] and received every courtesy from the arbitration panel to account for his purported *pro se* status." (NYSCEF doc No. 13, p. 7) In any event, Petitioner maintains that absence of counsel does not fall under any of the enumerated grounds to vacate an award under CPLR 7511.

This Court agrees with Petitioner. A review of the record shows that on a number of occasions, Respondent sought assistance from his counsel (*see* NYSCEF doc No. 25 ["Jonathan- need to send the language to my lawyer before I confirm anything. Hope you understand. I will not walk away from the payment we agree on though."]; NYSCEF doc No. 36 ["Dear Jonathan- thank you for the information. I'm consulting with my attorney and shall revert tomorrow."]). Regardless of whether Respondent had access to legal counsel during the Arbitration, the grounds to vacate an award under CPLR 7511 "are exclusive and the courts exercise no general power to grant equitable relief from arbitration awards…" (*Torano v Motor Vehicle Acci. Indemnification Corp*. (19 AD2d 356 [1st Dept 1963]); *see also Matter of Green v Manhattan Community BD. 10* (129 AD3d 588 [1st Dept 2015] [Here, the Court refused to hear the merits of petitioner's claim to vacate an award just because of petitioner's *pro se* status.]).

Allegations of Petitioner's Poor Legal Representation of Respondent

Finally, the allegations of "failures" in the underlying representation of Respondent by Petitioner is likewise not a ground to vacate the Award (NYSCEF doc No. 12, ¶¶ 6-7). Of course,

Petitioner vehemently denies Respondent's allegations, maintaining that it provided Respondent with "top-notch legal defense" (NYSCEF doc No. 13, p. 5).

This Court finds Respondent's allegations to be irrelevant to this proceeding as it does not constitute any of the grounds to vacate an award under CPLR 7511. In any event, had Respondent really felt that Petitioner was guilty of "serious failures" when it was acting as his counsel, Respondent could have proceeded with the Arbitration hearings so that the Panel of Arbitrators could have made a determination of what could have been a reasonable attorney's fee under the Retainer Agreement. Respondent, however, opted to settle the dispute for an amount and payment terms that he himself negotiated.[2]

CONCLUSION

Based on the foregoing, it is hereby

ORDERED that the petition of Quinn Emanuel Urquhart & Sullivan LLP (Motion Seq. 001) for the confirmation of the "Stipulated Consent Award" dated June 11, 2020 entered in JAMS Arbitration No. 1410008026, pursuant to CPLR 7510, is granted in full; and it is further

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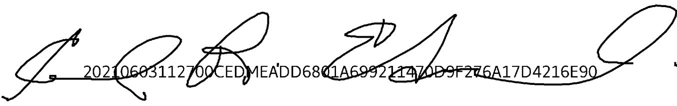

6/3/2021
DATE

CAROL R. EDMEAD, J.S.C.

CHECK ONE:	x	CASE DISPOSED			NON-FINAL DISPOSITION		
	x	GRANTED	☐	DENIED	☐ GRANTED IN PART	☐	OTHER
APPLICATION:	☐	SETTLE ORDER			☐ SUBMIT ORDER		
CHECK IF APPROPRIATE:	☐	INCLUDES TRANSFER/REASSIGN			☐ FIDUCIARY APPOINTMENT	☐	REFERENCE

[2] It strains credulity that a former client who was dissatisfied with a law firm's legal services would offer to refer a new client to said law firm. That was what Respondent did here when he offered to refer to Petitioner a new client while the Arbitration was ongoing (see NYSCEF doc No. 40 ["On a different note I could recommend a new/important client over a sensitive case if you could intro a great criminal & maybe defamation lawyer ASAP as the time is of the essence."]).