

**AKF Inc. v Wright**

2025 NY Slip Op 31184(U)

April 3, 2025

Supreme Court, New York County

Docket Number: Index No. 654974/2024

Judge: Alexander M. Tisch

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ALEXANDER M. TISCH PART 18

Justice

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AKF INC.,

Plaintiff,

- v -

JONATHAN NATHANIEL WRIGHT, DAWAYNE EVERTTE
TAYLOR

Defendant.

-----X

INDEX NO. 654974/2024

MOTION DATE 09/24/2024

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,16

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

Upon the foregoing documents, petitioner AKF Inc., doing business as Fundkite, seeks, pursuant to Civil Practice Law and Rules § 7510, to confirm an arbitration award against respondents, Jonathan Nathaniel Wright and Dawayne Evertte Taylor as guarantors for non-party Guided Paths, Inc.

AKF and Guided Paths entered into a Revenue Purchase Agreement dated December 14, 2023 (Agreement, attached as exhibit A to the verified petition, NY St Cts Elec Filing [NYSCEF] Doc No. 4). In the Agreement, Guided Paths promised AKF \$115,200 (Purchased Amount) of its future receivables (Receipts) for an upfront lump sum payment of \$80,000, less applicable fees (Agreement at 2, 20). Per the Agreement, Guided Paths agreed to deposit all Receipts into a designated bank account (Designated Account) accessible to AKF. Every week, AKF was to debit the Designated Account for \$5,760, subject to reconciliation, until the Purchased Amount was paid. According to the Agreement, Guided Paths would default if it

“refuses to deliver the Remittance Percentage of its Receipts” or if AKF was “unable, at any time, to successfully debit the Designated Account due to any ‘block’” placed by Guided Path (Agreement at § 3.1). After a default, the outstanding Purchased Amount becomes immediately due to AKF with additional fees and charges including reasonable attorney’s fees, costs, and default fees (Agreement at § 3.2). Respondents guaranteed Guided Paths’ performance and agreed to pay all reasonable costs associated with a default (Agreement at 15 and § 3.3).

On April 5, April 10, and April 12, 2024, AKF was unable to debit the Designated Account for the agreed upon amount due to insufficient funds and stopped payments (Bank Statements, attached as exhibit D to the verified petition, NYSCEF Doc No. 7). AKF sought arbitration with Guided Paths and respondents pursuant to the Agreement. Neither Guided Paths nor respondents participated in the arbitration.

The arbitrator issued the Final Arbitration Award on August 28, 2024, finding Guided Paths and respondents defaulted under the agreed upon Mediation & Civil Arbitration, Inc. Commercial Arbitration Rules by not filing a responsive statement to AKF’s demand for arbitration within 14 days (Final Arbitration Award, attached as exhibit J to the verified petition, NYSCEF Doc No. 7, ¶ 30-31). Further, the arbitrator found Guided Paths’ “act of diverting receipts from the Designated Account and refusal to turn over the diverted Receipts” constituted default under the Agreement (Final Arbitration Award, ¶ 17). The arbitrator awarded AKF \$45,784.31 (Final Arbitration Award, ¶ 28). The award includes the outstanding Purchased Amount (\$34,833.08), default fees (\$8,708.27), attorney’s fees and expenses (\$1,942.96), and the Commercial Arbitration Claim filing fee (\$300) (*id.*, ¶ 22). Last, the arbitrator found AKF is entitled to pre-judgment interest accruing from the date of respondents’ default at 9% per annum thereon. AKF now seeks confirmation of the arbitration award against the respondents.

Pursuant to CPLR 7510, the Court “shall confirm an [arbitration] award upon application of a party made within one year after its delivery to them, unless the award is vacated or modified upon a ground specified in section 7511.” The award was issued on August 28, 2024. This action was timely filed, with proof of service to respondents, on September 24, 2024. Respondents did not oppose confirmation of the award. The Court, on review of the award, concludes the amount is rational and not arbitrary or capricious and should be confirmed and a money judgment entered for the petitioner.

Generally, the money judgment will bear interest from the date of the relevant arbitration award (*see* CPLR 5002; *Board of Educ. of Cent. School Dist. No. 1 of Towns of Niagara, Wheatfield, Lewiston & Cambria v Niagara-Wheatfield Teachers Assn.*, 46 NY2d 553, 558 [1979]; *Dermigny v Harper*, 127 AD3d 685, 686 [2d Dept 2015]; *Matter of Levin & Glasser, P.C. v Kenmore Prop., LLC*, 70 AD3d 443, 446 [1st Dept 2010]; *Matter of Gruberg v Cortell Group, Inc.*, 143 AD2d 39, 39 [1st Dept 1988]). Here, the arbitrator awarded prejudgment interest from the date of Guided Paths’ default, April 12, 2024. (*Penco Fabrics, Inc. v Louis Bogopulsky, Inc.*, 1 AD2d 659 [1st Dept 1955] (holding that interest from the date of the breach is a question for the arbitrator)). Accordingly, the Court will award prejudgment interest on the arbitrator’s principal award of \$34,833.08 from April 12, 2024, and prejudgment interest on the attorney’s fees and other expenses of \$10,951.23 from the Final Arbitration Award date, August 28, 2024. (*see Solow Mgt. Corp. v Tanger*, 19 AD3d 225 [1st Dept 2005])

Accordingly, it is hereby


ORDERED and ADJUDGED that the verified petition (Motion Seq 001) is GRANTED without opposition pursuant to CPLR 7510 and the Final Arbitration Award dated August 28, 2024, Claim No. 45844/2024, is confirmed; and it is further

ORDERED that the Clerk of the Court shall enter a money judgment in favor of the petitioner, AKF Inc., doing business as Fundkite, and against the respondents, Jonathan Nathaniel Wright and Dawayne Evertte Taylor, jointly and severally, in the principal sum of \$45,784.31, with prejudgment interest from April 12, 2024 to the date of judgment at 9% per annum on the first \$34,833.08 of that sum, and with prejudgment interest from August 28, 2024 to the date of judgment at 9% per annum on the remaining \$10, 951.23 of that sum, and post-judgment interest at the rate of 9% per annum on both amounts to be computed by the Clerk of the Court, with the costs and disbursement of confirming the Final Arbitration Award as taxed by the Clerk; and it is further

ORDERED that petitioner shall, within 20 days from entry of this decision, order, and judgment, serve a copy of this order with notice of entry on respondents by mail and the Clerk of the General Clerk's Office (60 Centre Street, Room 119); and it is further

ORDERED that such service upon the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (see section J)<sup>1</sup>

This constitutes the decision, order, and judgment of the Court.

<u>4/3/2025</u> DATE	 ALEXANDER M. TISCH, J.S.C.			
CHECK ONE:	<input checked="" type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> DENIED	<input type="checkbox"/> NON-FINAL DISPOSITION	<input type="checkbox"/> OTHER
APPLICATION:	<input checked="" type="checkbox"/> GRANTED		<input type="checkbox"/> GRANTED IN PART	
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE

<sup>1</sup> The *Protocol* is accessible at the "E-Filing" page on the court's website: <https://ww2.nycourts.gov/courts/1jd/supctmanh/index.shtml>.