

**AKF, Inc. v HFF Rest. Group LLC**

2025 NY Slip Op 34305(U)

November 12, 2025

Supreme Court, New York County

Docket Number: Index No. 650749/2025

Judge: James G. Clynes

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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. JAMES G. CLYNES PART 39M

Justice

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AKF, INC. D/B/A FUNDKITE,
Petitioner,

INDEX NO. 650749/2025

MOTION DATE 04/25/2025

MOTION SEQ. NO. 002

- v -

HFF RESTAURANT GROUP LLC D/B/A HERE FISHY
FISHY/HERE FISHY FISHY-WILSHIRE, LA GO CLUB,
INC., BE & K HOLDINGS LLC, BENK RESTAURANT
GROUP LLC, DAE YEOL KIM, JAE CHUNG KO,

AMENDED
DECISION + ORDER ON
MOTION

Respondents.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 21, 22, 23, 24, 25,
26, 27, 28, 29, 30, 31, 32

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

Petitioner AKF, Inc., doing business as Fundkite ("petitioner" or "AFK"), moves pursuant
to CPLR 7510 and 7514, for an order confirming an arbitration award dated April 25, 2025, made
by an arbitrator acting under the auspices of the Mediation and Civil Arbitration, Inc ("MCA").
The respondents HFF Restaurant Group LLC, d/b/a Here Fishy Fishy/Here Fishy Fishy-Wilshire
("HFF Restaurant Group LLC"), LA Go Club, Inc., BE & K Holdings LLC, Benk Restaurant
Group LLC, Dae Yeol Kim and Jae Chung Ko (collectively "respondents") do not oppose the
petition.

For the reasons stated below, the petition is granted, the award is confirmed, and the Clerk
of the Court is directed to enter a money judgment in favor of petitioner and against the respondents
in the amount of \$344,098.56 plus the costs of seeking judicial confirmation of the award, along
with interest at 9% per annum from the date of the award, April 25, 2025.

In its petition, AFK argued that on January 8, 2025, petitioner entered into an agreement
with respondent HFF Restaurant Group LLC, pursuant to which petitioner agreed to purchase
\$291,100.00 (the "purchased amount") of HFF Restaurant Group LLC' future receivables for the
upfront lump sum of \$205,000.00 ("purchase price") less service fees in the sum of \$10,435.00.
The respondents LA GO CLUB, INC., BE & K HOLDINGS LLC, BENK RESTAURANT

GROUP LLC, HFF RESTAURANT GROUP LLC, DAE YEOL KIM and JAE CHUNG KO guaranteed respondent HFF Restaurant Group LLC's obligations under the agreement.

In the agreement, respondent HFF Restaurant Group LLC agreed to deposit all its receipts into a specific bank account for AFK to collect daily until AFK collected the entire purchased amount. Respondent HFF Restaurant Group LLC agreed under the contract that a default would occur if it refused to deliver the remittance percentage of its receipts or if AFK was unable to successfully debit the designated amount due to a block placed on the debits or if respondent HFF Restaurant Group LLC interrupted or diverted receipts from designated account. In the event of default, all receipts purchased became immediately due plus other charges. Respondent HFF Restaurant Group LLC defaulted, and the full outstanding unpaid amounts became due under the agreement. Petitioner argues that as of the date of the arbitration commencement, HFF Restaurant Group LLC only remitted \$16,461.15 of the purchased amount, leaving a balance of \$274,638.85 due plus a default fee of 25% of the balance of \$274,638.85 (which is \$68,659.7125), bringing the total amount owed by respondents to be \$343,298.56.

The agreement provided for arbitration of any dispute under the agreement, including for claims that respondents breached the agreement by failing to pay its weekly delivery. On March 13, 2025, AKF served a demand for arbitration of its claim for \$343,298.56 against the respondents before MCA, doing business as RapidRuling, an arbitral forum with headquarters in New York, New York, and offices located in New York, New York. The respondents failed to respond to the demand, defaulting under the MCA's Commercial Arbitration Rules. The award included an "additional damages" for reimbursement of the MCA filing fee in the amount of \$800. In an award dated April 25, 2025, the arbitrator agreed with AKF's contentions, and awarded AKF the principal sum of \$344,098.56, plus the costs of seeking judicial confirmation of the award, along with interest at 9% per annum from the date of the reward.

Pursuant to CPLR 7510, the court "shall confirm an [arbitration] award upon application of a party made within one year after its delivery to him [or her] unless the award is vacated or modified upon a ground specified in section 7511." The court is "directed unequivocally by CPLR 7510 to confirm an arbitration award if a timely application is made whenever the award is not vacated or modified under CPLR 7511" (*Bernstein Family Ltd. Partnership v Sovereign Partners, L.P.*, 66 AD3d 1, 5 [1st Dept 2009]). Since the arbitration involved here is consensual, rather than

compulsory, the award may only be vacated under CPLR 7511 if the court finds that the rights of a 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 applying to vacate the award continued with the arbitration with notice of the defect and without objection"

(CPLR 7511 [b][1]). The grounds specified in CPLR 7511 for vacatur of an arbitration award are exclusive (*see Bernstein Family Ltd. Partnership*, 66 A.D.3d at 8), and it is a "well-established rule that an arbitrator's rulings, unlike a trial court's, are largely unreviewable" (*Matter of Falzone v New York Cent. Mut. Fire Ins. Co.*, 15 NY3d 530, 534 [2013]).

The instant proceeding, which initially sought only a preliminary injunction in aid of arbitration, was commenced on February 7, 2025 (*see* CPLR 304[a]). AKF moved to confirm the award on April 25, 2025 and, thus, its application was timely made. AKF contends that the award was proper in all respects and that no grounds exist for modification or vacatur.

The court agrees with AKF. Respondents do not oppose AKF's petition or seek to vacate or modify the award on any ground specified in CPLR 7511. Therefore, the court is obligated to confirm the award under CPLR 7510 (*see Matter of Granet & Assoc, Inc. v Thom Filicia, Inc.*, 159 AD3d 573, 573 [1st Dept 2018] [reversing trial court's denial of application to confirm arbitration award as respondent "did not seek to vacate or modify the award on a ground specified in CPLR 7511, and therefore, the court was obliged to confirm the award under CPLR 7510").

The court concludes that AKF is entitled both to the confirmation of the award, and the entry of a money judgment in the sum of \$344,098.56, representing the principal sum that had been awarded by the arbitrator, plus the costs of seeking judicial confirmation of the award, along with interest at 9% per annum from the date of the award. The total award must bear interest from the date of the arbitration award, that is, from April 25, 2025 (*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 N.Y.2d 553, 558 [1979]; *Dermigny v Harper*, 127 A.D.3d 685, 686 [2d Dept 2015]; *Matter of Levin & Glasser, P.C. v Kenmore Prop., LLC*, 70 A.D.3d 443, 446 [1st Dept 2010]; *Matter of Gruberg v Cortell Group, Inc.*, 143 A.D.2d 39, 39 [1st Dept 1988]).

Accordingly, it is, ADJUDGED that the petition is granted, and the arbitration award rendered in the matter entitled *Matter of AKF, Inc. v HFF Restaurant Group LLC, d/b/a Here Fishy Fishy/Here Fishy Fishy-Wilshire*, et. al., Case Number 650749/2025, dated April 25, 2025, be, and hereby 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 HFF Restaurant Group LLC, d/b/a Here Fishy Fishy/Here Fishy Fishy-Wilshire, LA Go Club, Inc., BE & K Holdings LLC, Benk Restaurant Group LLC, Dae Yeol Kim and Jae Chung Ko jointly and severally, in the principal sum of \$344,098.56, plus the costs of seeking judicial confirmation of the award, along with interest at 9% per annum from the date of the award, April 25, 2025.

This constitutes the Decision, Order, and Judgment of the court.

11/12/2025

DATE

*James G. Clynes*

JAMES G. CLYNES, 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