

Arbitration Award Confirmed Despite Denial of Discovery and Evidentiary Hearing



Recently, a federal court confirmed an arbitration award in an amount in excess of \$185 million in a proceeding in which the arbitrator denied the respondent the opportunity for discovery as well as an evidentiary hearing. See *245 Park Member v. HNA Group (International)*, No. 22-cv-1536-(JGK) (S.D.N.Y. July 25, 2022). What warranted such an unusual result?

The matter involved the investment by petitioner in an affiliate of respondent. As consideration and express inducement for its investment, petitioner secured contractual rights and protections including an absolute and unconditional guaranty from respondent and others. The guaranty contained an

arbitration provision that provided in part:

“In the event of any dispute under this guaranty, such dispute shall be submitted to final and binding arbitration in New York, New York, administered by JAMS in accordance with JAMS streamlined arbitration rules and procedures ... Each party shall submit to such arbitrator its position on each matter in dispute and any applicable materials that it desires that such arbitrator consider in making its determination within seven business days following the appointment of the arbitrator. Such arbitrator shall consider only the materials submitted to it for resolution. Each party shall cooperate with JAMS and with the other parties in scheduling the arbitration proceedings so that a final nonappealable award is rendered within 30 calendar days after submission thereof to arbitration ”

The petitioner commenced an expedited JAMS arbitration, contending that the respondent’s obligations under the guaranty had been triggered. The respondent argued that it was entitled to an evidentiary hearing under the JAMS rules, which had been incorporated into the parties’ arbitration agreement, and both discovery and an evidentiary hearing as a matter of due process to investigate petitioner’s claims of fraud and in pari delicto defenses.

The petitioner responded that the parties had agreed to waive discovery and an evidentiary hearing by the clear and unambiguous terms of the arbitration agreement.

The arbitrator issued a scheduling decision in which she concluded that, “It is clear from the express language of the guaranty that the parties agreed to an expedited arbitration process that include waiving discovery and an evidentiary hearing.” She further noted that in light of the expedited schedule set out in the arbitration agreement, the parties “clearly did not contemplate

time for discovery.” Moreover, “there is no time allocated for a hearing and no language providing for one ...”

The parties submitted their merits submissions within seven days following the issuance of the scheduling decision. The arbitrator issued her award in favor of the petitioner within 30 days of such submissions, as called for in the arbitration agreement. The award included all of the damages sought by petitioner plus reasonable attorney fees and costs, and all and all fees and disbursements due to JAMS. The award explicitly noted that the arbitrator had “examined the submissions, proofs, pleadings allegations, of the parties as well as the numerous letters, exhibits and caselaw provided by counsel.” [READ MORE..](#)

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