10-226-cv Cardell Fin. Corp. v. Suchodolski Assocs., Inc.

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals 1 2 for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of 3 4 New York, on the 9th day of February, two thousand eleven. 5 6 PRESENT: DENNIS JACOBS, 7 Chief Judge, 8 PETER W. HALL, 9 RAYMOND J. LOHIER, Jr., 10 Circuit Judges. 11 12 - - - - - - - - - - X Cardell Financial Corp. and Deltec 13 14 Holdings, Inc., 15 Petitioners-Appellees, 16 17 10-226-cv -v.-18 19 Suchodolski Associates, Inc. and 20 Consultora Worldstar S.A., 21 Respondents-Appellants. 22 - - - - - - - - - - - - X 23 24 FOR APPELLANTS: Michael Evan Jaffe (David L. Kelleher, 25 Jackson & Campbell, P.C., on the brief), Pillsbury Winthrop Shaw Pittman, LLC, 26 27 Washington, D.C. 28

FOR APPELLEES:

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John Martin O'Connor (Helen J. Williamson, <u>on the brief</u>), Anderson Kill & Olick, P.C., New York, New York.

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the amended judgment of the district court be **AFFIRMED**.

9 Respondents-Appellants Suchodolski Associates, Inc. and 10 Consultora Worldstar S.A. appeal from an amended judgment of the United States District Court for the Southern District 11 12 of New York (Marrero, J.) confirming an arbitration award 13 and injunctive relief in favor of Petitioners-Appellees 14 Cardell Financial Corp. and Deltec Holdings, Inc. We assume 15 the parties' familiarity with the underlying facts, the 16 procedural history, and the issues presented for review.

18 "In reviewing a district court's decision to confirm an 19 arbitral award, we review findings of fact for clear error 20 and conclusions of law de novo." Idea Nuova, Inc. v. GM Licensing Group, Inc., 617 F.3d 177, 180 (2d Cir. 2010). 21 22 "It is well established that courts must grant an 23 arbitration panel's decision great deference." Duferco Int'l Steel Trading v. T. Klaveness Shipping A/S, 333 F.3d 24 25 383, 388 (2d Cir. 2003). Manifest disregard of the law is 26 evidenced only in "those exceedingly rare instances where 27 some egregious impropriety on the part of the arbitrators is 28 apparent." Stolt-Nielsen S.A. v. AnimalFeeds Int'l Corp., 548 F.3d 85, 91-92 (2d Cir. 2008), rev'd on other grounds, 29 30 130 S. Ct. 1758 (2010) (internal quotation marks omitted). 31 The doctrine is "a mechanism to enforce the parties' 32 agreements to arbitrate rather than as judicial review of 33 the arbitrators' decision." Id. at 95.

35 In order to find manifest disregard of the law: (1) we 36 first "consider whether the law that was allegedly ignored 37 was clear, and in fact explicitly applicable to the matter before the arbitrators," <u>Duferco</u>, 333 F.3d at 390; (2) we 38 must then find that "the law was in fact improperly applied 39 [by the Arbitrator], leading to an erroneous outcome," id.; 40 41 and finally (3) we determine whether "the arbitrator must 42 have known of [the applicable law's] existence, and its 43 applicability to the problem before him," id. With respect 44 to the last element, "we impute only knowledge of governing 45 law identified by the parties to the arbitration." Id.; see 46 also Stolt-Nielsen, 548 F.3d at 93 (quoting the Duferco 47 three-part test in its entirety).

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After having reviewed Appellants' contentions on appeal 1 and the record of the proceedings below, we affirm for 2 substantially the same reasons stated by the district court 3 in its thorough opinion. 4 5 6 We have considered all of Appellants' remaining arguments and find them to be without merit. For the 7 foregoing reasons, the amended judgment of the district 8 9 court is hereby **AFFIRMED**. 10 11 12 FOR THE COURT: 13 CATHERINE O'HAGAN WOLFE, CLERK 14