



JUDGE CAPRONI

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Employers Insurance of Wausau A Mutual
Company,

Court File No.: _____

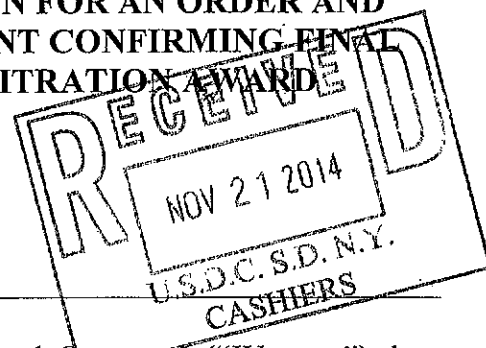
Petitioner,

vs.

PETITION FOR AN ORDER AND
JUDGMENT CONFIRMING FINAL
ARBITRATION AWARD

Nutmeg Insurance Company and Twin City
Fire Insurance Company,

Defendants.



Petitioner, Employers Insurance of Wausau A Mutual Company (“Wausau”), by its attorneys, Larson • King LLP, respectfully petitions this Court for an order and judgment, pursuant to Section 9 of the Federal Arbitration Act, 9 U.S.C. § 9, (a) confirming the May 16, 2014 Award rendered by an arbitration panel in an arbitration proceeding between Wausau and Respondent, Nutmeg Insurance Company (“Nutmeg”), and Twin City Fire Insurance Company (“Twin City”), and (b) ordering judgment in favor of Wausau on the Award.

THE PARTIES

1. Wausau is a company organized and existing under the laws of the State of Wisconsin with its principal place of business in Wisconsin.

2. Nutmeg is a corporation organized and existing under the laws of the State of Connecticut, with its principal place of business in Hartford, Connecticut.

3. Twin City is a corporation organized and existing under the laws of the State of Indiana, with its principal place of business in Indianapolis, Indiana.

4. Jurisdiction is based on diversity of citizenship. 28 U.S.C. § 1332. The amount in controversy exceeds \$75,000, exclusive of interests and costs.

5. Venue lies in this district under 28 U.S.C. § 1391 because Nutmeg and Twin City are corporations amenable to personal jurisdiction in this district. Venue is further properly based on Section 9 of the Federal Arbitration Act (the “Act”), 9 U.S.C. § 9, because the parties to the reinsurance treaties (“Quota Share” and “Common Account”) agreed that “[j]udgment may be entered upon the award of the [panel] in any court having jurisdiction thereof.” (Exs. A, B.) The arbitration hearing resulting in the award which is attempted to be confirmed by Wausau took place in this district.

CLAIM FOR RELIEF

6. In the 1980s, Nutmeg/Twin City entered into a reinsurance program with, among other reinsurers, Wausau. Two pieces of that program are at issue in the pending arbitration: first, the Casualty Quota Share Contract of Reinsurance on which Nutmeg/Twin City was the cedent and Wausau was one of the reinsurers (“Quota Share”) (Ex. A); and second, sitting above the Quota Share were several common account excess of loss covers that protected the quota share reinsurers for any losses in excess of \$675,000 (“Common Account”) (Ex. B).

7. Nutmeg/Twin City billed Wausau for various claims pursuant to the Quota Share and Common Account agreements. Nutmeg/Twin City demanded this arbitration in 2012, in an effort to collect amounts it viewed as owing by Wausau.

8. In accordance with the arbitration clauses of the treaties, the matter was submitted to a panel of three arbitrators: two party arbitrators who selected a neutral umpire.

9. One issue that arose during the arbitration was Wausau's right to obtain access to records under the treaties. The panel scheduled a May 15, 2014 evidentiary hearing, in New York City, New York, to decide that issue and requested briefing from the parties. Specifically, the panel asked the parties to discuss:

What quantum and type of information must accompany Hartford's billing in order to trigger Wausau's payment obligation under the Common Account?

Whether Wausau may withhold payment on the condition that Hartford answer (to Wausau's sole satisfaction) Wausau's requests for additional, sometimes privileged, information and documentation, by way of audits or otherwise?

10. After the May 15 evidentiary hearing, the panel issued its third interim award on May 16, which ordered, among other things, that:

Within thirty (30) days [Nutmeg/Twin City] will, if not already provided, provide [Wausau] with a) the [Nutmeg/Twin City]'s standard proof of loss which will evidence proof of payment, b) copy of the underlying policy or policies relating to the loss settlement at issue and a narrative and reasonable documentation supporting the manner in which the loss settlement fell within the conditions of the [Nutmeg/Twin City]'s original policy or policies, and c) a narrative and reasonable documentation demonstrating that the loss settlement was within the terms of the XOL treaty at issue.

(Ex. C.)

11. The award was sent to the parties via electronic mail.

12. Neither Wausau nor Nutmeg/Twin City has yet sought to vacate, modify or correct the award.

13. This Petition to Confirm is brought within one year after the award was rendered.

14. A copy of a Proposed Order and Judgment confirming the Award is annexed as Exhibit D.

15. Wausau has not made a prior application to this Court, or any other court, for the relief requested in this Petition.

WHEREFORE, Employers Insurance of Wausau A Mutual Company respectfully requests that the Court enter an order:

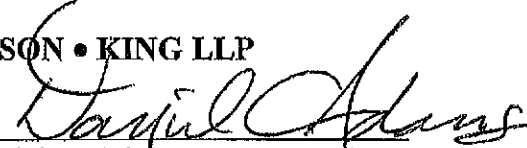
(a) Confirming the May 16, 2014 award rendered by an arbitration panel in an arbitration proceeding between Employers Insurance of Wausau A Mutual Company and Nutmeg Insurance Company and Twin City Fire Insurance Company, and

(b) Ordering judgment in favor of Employers Insurance of Wausau A Mutual Company on the award.

Dated: 11/18/14

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