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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TRADER JOE'S COMPANY,

Plaintiff,

v.

MICHAEL NORMAN HALLATT,

Defendant.

CASE NO. C13-768 BJR

ORDER AFFIRMING
ARBITRATION AWARD

This is a trademark infringement suit brought by Plaintiff to halt Defendant's practice of buying their products in the United States and reselling them in Canada through his own "Pirate Joe's" retail outlet. Following the remand of this case from the Ninth Circuit Court of Appeals, the parties undertook efforts to reach a resolution of their dispute. An apparently successful initial agreement fell apart, and the parties are back before the Court on Plaintiff's motion to confirm and enforce an arbitration award issued by Judge William Downing of JAMS.

Having considered the parties' respective submissions and supporting documents, the Court GRANTS Trader Joe's motion.

Factual Background

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2 On June 7, 2017, the parties executed a “Term Sheet” which “summarize[d] the principal
3 terms under which [the parties] intend[ed] to negotiate in good faith a mutually acceptable
4 settlement agreement.” (Dkt. No. 100, Declaration of Berliner (Sealed), Ex. B; “Term Sheet”).
5 It was clearly stated in the body of the document that it “is a binding and enforceable
6 agreement.” (*Id.* at ¶ 12.)

7 Under the provisions of the Term Sheet, Defendant agreed to “immediately cease
8 reselling products purchased from Trader Joe’s stores” and Plaintiff agreed to make a settlement
9 payment to Defendant, subject to deductions if he breached the terms of the agreement. (*Id.* at ¶
10 1,3, 13.) Believing that Defendant had breached the agreement (by, among other things,
11 continuing to sell Trader Joe’s products in a going-out-of-business sale), Plaintiff proposed a
12 partial payment of the settlement amount to Defendant, with the remainder being placed in
13 escrow while some resolution of the alleged breaches was attempted. (Decl. of Berliner, Exs. C-
14 I.)

15 In response, Defendant, believing that Plaintiff had “repudiated” the agreement and that
16 he was relieved of all obligations thereunder, reopened his store. (*Id.* at Exs. J-K.) Pursuant to
17 the Term Sheet’s arbitration provision (Term Sheet at ¶ 9), Plaintiff commenced an emergency
18 arbitration before JAMS. (Decl. of Berliner, Ex. L.) The matter was assigned to the Honorable
19 William Downing, who solicited written submissions from the parties and conducted a telephone
20 conference with counsel for Plaintiff and Defendant (who appeared *pro se*, his counsel having
21 withdrawn shortly after the arbitration demand was served). (Decl. of Berliner, Ex. A at 2;
22 “Arbitration Award.”)

1 In his Arbitration Award, Judge Downing granted the relief sought by Plaintiff, ordering
2 Defendant (among other things) to abide by the Term Sheet and immediately cease reselling
3 products purchased from Trader Joe’s stores. Additionally, the arbitrator set a schedule for non-
4 emergency arbitration on other issues related to the settlement payments. (*Id.* at 3-4.) Plaintiff
5 alleges that Defendant is continuing to resell its products in violation of the Term Sheet and the
6 Arbitration Award (Decl. of Berliner at ¶ 15), and seeks by this motion to have this Court
7 confirm and enforce the Arbitration Award.

8 Discussion

9 Under the Federal Arbitration Act, review of an arbitration award “is both limited and
10 highly deferential.” *PowerAgent Inc. v. Elec. Data Sys. Corp.*, 358 F.3d 1187, 1193 (9th Cir.
11 2004). The conditions which permit the vacatur of an arbitration award require either a finding
12 of “corruption, fraud or undue means” or “misconduct” or some other overreaching on the part of
13 the arbitrator. 9 U.S.C. § 10(a)(1)-(4); *Kyocera Corp. V. Prudential-Bache Trade Servs., Inc.*,
14 341 F.3d 987, 997 (9th Cir. 2003). Even legal or factual errors will only support reversal if they
15 result in an award which is “completely irrational” or reflects a “manifest disregard of the law.”
16 *French v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 784 F.3d 902, 906 (9th Cir. 1986).

17 None of those factors are present here, nor has Defendant even argued that they are. His
18 materials, submitted in conjunction with the motion before the Court (*see* Defendant’s Factual
19 Background and Argument, Dkt. No. 96 at 10-12; Declaration of Hallatt, Dkt. No. 101),
20 essentially re-argue the facts that he was given a full opportunity to present to the arbitrator and
21 conclude with his opinion that Plaintiff “made a material breach that could never be undone and
22 once again rescinded the Term Sheet” when it only made a partial settlement payment. (*Id.* at ¶
23 27.)

1 Defendant is entitled to present the facts as he sees them and to draw what legal
2 conclusions he will, but he is required to present sound legal authority for his position and to
3 submit admissible evidence regarding why the arbitrator's decision should not be enforced. He
4 has done neither. This Court confirms the arbitrator's finding that the Term Sheet is an
5 enforceable legal agreement binding on all parties and will order enforcement of the Arbitration
6 Award and the provisions of the Term Sheet.

7 **Conclusion**

8 The parties were given a full opportunity to present their position to the arbitrator. Judge
9 Downing's decision was based on a review of that evidence and is legally sound and fully
10 enforceable. Having considered the parties' respective submissions and supporting documents,
11 the Court GRANTS Trader Joe's motion. Mr. Hallatt is ordered to:

- 12 (1) immediately cease reselling products purchased from Trader Joe's stores;
 - 13 (2) immediately cease directly or indirectly purchasing products from Trader Joe's
14 retail stores for any commercial purpose, including, but not limited to, (i) resale
15 online or at any retail location or (ii) use in restaurant, café, or other food
16 establishment;
 - 17 (3) immediately remove signage from the premises located at 3744 West 10th
18 Avenue, Vancouver, British Columbia, Canada;
 - 19 (4) arrange for the transfer of all existing inventory held by Mr. Hallatt to Trader
20 Joe's for secure destruction; and
 - 21 (5) refrain (i) from disclosing the terms of the parties' settlement agreement and (ii)
22 from disparaging Trader Joe's.
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