

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 17-22380-CIV-WILLIAMS/TORRES

S.C. JOHNSON & SON, INC.,
and S.C. JOHNSON & SON DE
VENEZUELA S.C.A.,

Plaintiffs/Petitioners,

v.

GHERSY GROUP INTEGRATED
COMMUNICATIONS, LLC,

Defendant/Respondent.

**REPORT AND RECOMMENDATION ON
PETITIONERS' MOTION TO CONFIRM ARBITRATION AWARD
AND FOR ENTRY OF FINAL JUDGMENT**

This matter is on the pending motion for confirm arbitration award filed by Petitioners S.C. JOHNSON & SON, INC., and S.C. JOHNSON & SON DE VENEZUELA S.C.A. (collectively "Petitioners") [D.E. 5]. The motion was referred for disposition. [D.E. 6]. No timely opposition has been filed to the motion by Defendant/Respondent Ghersy Group Integrated Communications, LLC ("Ghersy"). Accordingly, the motion may be granted by default under S.D. Fla. Local R. 7.1. In addition, upon reviewing the motion and the supporting record, the motion should also be Granted on the merits for the reasons explained below.

1. The pending motion was filed under 9 U.S.C. §§ 1, *et. al.* ("the Federal Arbitration Act") seeking entry of an order confirming an Arbitrator's May 5, 2017,

Consent Award (the "Award"). The motion also seeks entry of Judgment in favor of Petitioners and against Ghersy under the provisions of the Award.

2. Petitioner S.C. Johnson & Son De Venezuela and Ghersy entered into a Paying Services Agreement in 2015 that incorporated an arbitration provision in the event any disputes arose under the Agreement. Under that provision, Petitioners filed a Demand for Arbitration on or about April 13, 2016, to which Ghersy answered on July 11, 2016. The dispute proceeded to arbitration, during which the parties entered into a Settlement Agreement and Release.

3. Pursuant to the Settlement Agreement, the parties agreed that a final and binding consent award would be entered by the Arbitrator, which could be enforced in any court of competent jurisdiction. The arbitrator entered the final Award as per that agreement, which required Ghersy to pay Petitioners \$453,893.77, plus \$24,800.00 for reimbursement of the administrative fees and costs incurred by Petitioners in the arbitration.

4. Since that Award was entered, Ghersy failed to make the payments required by the Award. Ghersy has also not sought to vacate the award. As a result, Petitioners filed this action on June 26, 2017, in this Court to Confirm the Arbitration Award. [D.E. 1]. The Petition was filed within one year of the issuance of the Award.

5. Ghersy was served with the Petition, as well as the pending motion to confirm the arbitration award. Yet, no appearance has been made in the case on

Ghersy's behalf, nor any response filed in opposition to the petition or motion. The matter is thus ripe for disposition.

6. According to the FAA, arbitration awards "must" be confirmed unless they are vacated, modified, or corrected for the limited reasons set forth in the statute, 9 U.S.C. §§ 9-11. *See, e.g., Cat Charter, LLC v. Schurtenberger*, 646 F.3d 836, 842 (11th Cir. 2011) ("[T]he FAA imposes a heavy presumption in favor of confirming awards; therefore, a court's confirmation of an arbitration award is usually routine or summary"). Thus, the FAA "unequivocally tells courts to grant confirmation in all cases, except when one of the 'prescribed' exceptions applies." *Hall Street Assocs. v. Mattel, Inc.*, 552 U.S. 576, 587 (2008).

7. Here, the record shows that no such grounds exist and the Award should be confirmed under the FAA. *See, e.g., Frazier v. CitiFinancial Corp.*, 604 F.3d 1313, 1321 (11th Cir. 2010) ("There is a presumption under the FAA that arbitration awards will be confirmed, and 'federal courts should defer to an arbitrator's decision whenever possible.' ") (quoting *B. L. Harbert Int'l v. Hercules Steel Co.*, 441 F.3d 905, 909 (11th Cir. 2006)).

8. As set forth in the Petition, which has not been contested in any way, Petitioners have met all the requirements for confirmation of the Award. The Award has not been vacated or modified, and the Petition was filed well within one year of the May 5, 2017 issue date. Under the FAA, there is no record basis to withhold confirmation of the Award.

9. Accordingly, it is hereby RECOMMENDED that the Court enter a Final Judgment in favor of S.C. Johnson and against Ghersy per the terms of the Award. A form of that Judgment was filed as an exhibit to the motion and should now be entered, plus post-judgment interest.

10. Pursuant to Local Magistrate Rule 4(b) and Fed. R. Civ. P. 73, the parties have fourteen (14) days from service of this Report and Recommendation within which to file written objections, if any, with the District Judge. Failure to timely file objections shall bar the parties from *de novo* determination by the District Judge of any factual or legal issue covered in the Report *and* shall bar the parties from challenging on appeal the District Judge's Order based on any unobjected-to factual or legal conclusions included in the Report. *See* 28 U.S.C. § 636(b)(1); 11th Cir. Rule 3-1; *Patton v. Rowell*, 2017 WL 443634 (11th Cir. Feb. 2, 2017); *Cooley v. Commissioner of Social Security*, 2016 WL 7321208 (11th Cir. Dec. 16, 2016).

DONE AND SUBMITTED in Chambers at Miami, Florida, this 25th day of September, 2017.

/s/ Edwin G. Torres
EDWIN G. TORRES
United States Magistrate Judge