

Mind On His Money and His Money On His Mind: New York District Court Judge Affirms Arbitral Award Arising Out of Dispute Over Royalties Owed to Rapper Snoop Dogg

By: Justin K. Fortescue and Marianne Bradley

Reinsurance Alert

2.12.21

Perhaps Snoop Dogg should stick to gin n' juice, as the rapper's foray into promoting cognac and brandy products caused him to become the subject of a decade-long arbitral dispute, which was finally resolved last month.

On January 25, 2021, a New York district court judge affirmed a nearly \$2 million arbitration award against French cognac distiller Cognac Ferrand SAS (Ferrand) resulting from a dispute over \$35,000 in royalties allegedly owed to rapper Snoop Dogg. The dispute arose out of Ferrand's early termination of a five-year contract with U.S. liquor importer Mystique Brands (Mystique), pursuant to which Ferrand granted Mystique the exclusive right to import and market Ferrand's "Landy" line of cognac and brandy. As part of the contract, Mystique agreed to enter into a marketing agreement with Snoop Dogg to endorse and promote Landy products.

In May of 2009 – about one year into the contract – Ferrand terminated the agreement after learning that Mystique's business had begun to deteriorate and that the company had failed to make royalty payments owed to Snoop Dogg (it turns out it *is* hard being Snoop D-O-Double G). A year later, Mystique initiated arbitration before the International Centre for Dispute Resolution (ICDR) against Ferrand for breach of contract, and Ferrand asserted counterclaims for fraud, breach of contract and negligent misrepresentation. In 2012, the arbitrator issued an interim award granting Ferrand's motion for partial summary judgment, held that Ferrand did not breach its contract with Mystique and that a further evidentiary hearing would take place in April 2013.

In January 2013, before the second evidentiary hearing took place, Mystique filed for Chapter 7 bankruptcy, and the arbitration was automatically stayed pending bankruptcy proceedings. The bankruptcy proceedings closed nearly four years later, and Ferrand moved to reinstate the arbitration proceedings (in which it had largely prevailed). The ICDR responded that the matter "ha[d] been closed administratively [.]" that all associated records had been destroyed and that the only way to proceed with arbitration would be to file a new notice of arbitration.

In December of 2019, the "next episode" of the arbitration went forward and the new ICDR arbitrator determined that Mystique did not materially breach the agreement by virtue of its insolvency or the failure to pay Snoop Dog royalties (i.e., reached the opposite conclusion of the first arbitrator). In addition, as the prevailing party, Mystique was awarded \$1.9 million in attorneys' fees and costs in the second arbitration.

On July 30, 2020, Ferrand filed a petition with the court to vacate the award of fees and costs to Mystique, arguing that the arbitrator erroneously concluded that Mystique was the prevailing party, and that – in fact – "neither party was a prevailing party" because the First Arbitrator dismissed Mystique's claims, and the IDCR Arbitrator dismissed Ferrand's. Mystique opposed the motion on the grounds that Ferrand's attempt to vacate was frivolous.

The district court denied Ferrand's petition to vacate, and granted Mystique's cross-motion to confirm. In the opinion, the court rejected Ferrand's arguments, finding that the IDCR Arbitrator: (1) did not exceed her authority by disregarding the proceedings before the First Arbitrator; (2) did not manifestly disregard the proceedings before the First Arbitrator and/or certain terms of the contract by ignoring whether there was "any" prevailing party and/or misconstruing the scope of the "dispute;" and (3) did not fail to render a final and

125th
ANNIVERSARY

White and
Williams LLP

definite award by not addressing Ferrand's request for fees and costs arising from the proceedings before the First Arbitrator.

As the court wrote, "Ferrand has not shown that any aspect of the award should be vacated for any reason. And Mystique, for its part, has met its burden of proving the absence of any genuine dispute of material fact precluding confirmation of all portions of the award."

While seemingly a run of the mill confirmation proceeding, this case demonstrates the deference afforded to arbitrators' decisions even where, as was the case in *Cognac*, those decisions are counter to the decision of a prior, but never finalized, arbitration award. No word yet as to whether the alleged unpaid royalties have led Mr. Dogg to drop the endorsement deal, like it's hot.

If you have questions or would like additional information, please contact Justin K. Fortescue (fortescuej@whiteandwilliams.com; 215.864.6823), Marianne Bradley (bradleym@whiteandwilliams.com; 215.864.7094) or another member of our Reinsurance Group.

This correspondence should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only and you are urged to consult a lawyer concerning your own situation and legal questions.

