

New York Federal Court Finds Vacatur of Arbitration Award Not Warranted

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Michael Miller (“Miller”) filed a petition to vacate an arbitration award against UBS Financial Services Inc. and UBS Credit Corp. (collectively “UBS”) claiming that “the award is unsound because two of the three arbitrators on the panel that issued the award failed to properly disclose relevant information during the arbitrator selection process.” Miller is a former employee of UBS. He received six loans from UBS, which were immediately due upon his termination from the company. Miller agreed to submit any disputes regarding the loans to arbitration. When Miller resigned, UBS filed a statement of claim against Miller in connection with the outstanding loan balance and proceeded with arbitration. The arbitration panel found in favor of UBS.

The court held that vacatur was not warranted under FAA § 10(a)(2) because the arbitrators did not exceed their powers. The court concluded that Miller failed to demonstrate a violation of FINRA Rule 13408, which governs the disclosures required of arbitrators in advance of arbitration and “thus failed to establish on these grounds that the arbitrators acted in excess of their powers in issuing the arbitration award.” Further, with respect to an alleged deficient disclosure on the Oath of Arbitration form regarding an arbitrator’s interest in UBS, the court explained that Miller waived the right to object on this basis. The court explained that the arbitrator’s affirmative answer on the Oath of Arbitration form gave Miller notice of a possible objection and “[w]here a party has knowledge of facts possibly indicating bias or partiality on the part of an arbitrator he cannot remain silent and later object to the award of the arbitrators on that ground.” The court also held that vacatur under FAA § 10(a)(2) on the basis of “evident partiality or corruption in the arbitrators” was not warranted because “the first two allegedly deficient disclosures identified [were] not suggestive of any bias on the part of the arbitrators, and because any objection premised on the third disclosure was waived.”

Miller v. UBS Financial Services, Inc., et. al., No. 18-CV-8415 (JPO)(S.D.N.Y. May 5, 2019)

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