

Court Remands Arbitration Award to Arbitrator for Clarification

Article By:

Rachel J. Schwartz

Three Brothers Trading LLC d/b/a Alternative Execution Group (AEXG) and Generex Biotechnology Corp. entered into a contract whereby AEXG would secure investors for Generex's business and, in exchange, Generex would pay AEXG a percentage of the funds received by any investor AEXG had referred. The contract included a "sixty-day 'No Shop' exclusivity provision," which barred Generex from entering "into any financing transaction other than with existing shareholders" or with investors referred by AEXG. The contract required any disputes to be resolved through arbitration. Generex allegedly breached the contract by entering into a financial transaction with a party who was not referred by AEXG. AEXG commenced an arbitration.

The arbitrator determined that Generex violated the no-shop provision and awarded four separate awards to AEXG. AEXG brought a petition to confirm the award, and Generex in turn brought a motion to modify, vacate, and remand the award.

The court explained that it "uses an extremely deferential standard of review for arbitral awards." However, an award may be remanded to the arbitrator if the "award is incomplete or ambiguous" and the court "is unable to discern how to enforce it." Pursuant to 9 U.S.C. § 11, remand should not be granted when the court can resolve any alleged ambiguities in the award by modification. The court held that the terms of the second award were ambiguous as there were several interpretations of the award that yielded very different outcomes for the parties. As such, the court was unable to modify the award and remanded the case to the arbitrator for clarification.

[*Three Bros. Trading, LLC v. Generex Biotechnology Corp.*](#), No. 1:18-cv-11585 (S.D.N.Y. July 31, 2019).

©2011-2025 Carlton Fields, P.A.

National Law Review, Volume IX, Number 235

Source URL: <https://natlawreview.com/article/court-remands-arbitration-award-to-arbitrator-clarification>