FELICIEN PERRIN	*	**NO. 2002-CA-1259**
VERSUS	*	**COURT OF APPEAL**
CHARLES J. GIARDINA, METLIFE SECURITIES, INC., AND METLIFE TRUST COMPANY, N.A.	*	**FOURTH CIRCUIT**
	*	**STATE OF LOUISIANA**
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APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2001-20357, DIVISION "N-8"
Honorable Ethel Simms Julien, Judge

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Judge Steven R. Plotkin

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(Court composed of Judge Steven R. Plotkin, Judge Miriam G. Waltzer, Judge Terri F. Love)

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AFFIRMED

From May 2000 through November 2000, plaintiff, Felicien Perrin, met with Charles Giardina, a financial planner with Metlife Securities, Inc., on numerous occasions to discuss financial planning options. On November 21, 2000, plaintiff entered into an *inter vivos* charitable remainder unitrust agreement (CRUT) with defendant, Metlife Trust Company, N.A. ("Metlife"). The plaintiff was designated as the donor and defendant, Metlife, was the trustee. On December 11, 2001, the plaintiff filed the present suit alleging that Metlife was negligent in its liquidation and transfer of plaintiff's funds, which were to be used as assets of the trust. Metlife filed an exception of prematurity, arguing that the trust agreement required arbitration of all disputes. The trial court conducted a hearing on April 19, 2002 and orally denied the exception. A written judgment was rendered on May 14, 2002.

On appeal, Metlife contends that the trial court erred in denying its exception of prematurity. The defendant argues that the trust agreement provides for arbitration between the parties. Metlife relies upon the following provision found in the trust agreement:

> 10. **Powers of Trustee.** In performing its duties under this Trust, the Trustee shall have the following powers, including

but not limited to:

* * * * *

*

S. To submit to final arbitration any matter of difference with others.

The law reflects a strong legislative policy that favors arbitration. *J. Caldarera & Co. v. Louisiana Stadium & Exposition Dist.*, 98-294, p.4 (La. App. 5 Cir. 549, 551. Both federal and state jurisprudence dictates that any doubt as to whether a controversy is arbitrable should be resolved in favor of arbitration. *J. Caldarera*, 98-294 at p.4, 725 So. 2d at 551; *Russelville Steel Co., Inc. v. A & R Excavating , Inc.*, 624 So. 2d 11, 14 (La. App. 5 Cir. 1993). Notwithstanding the strong presumption in favor of arbitration, the arbitration clause that is sought to be enforced must have a "reasonably clear and ascertainable meaning" in order to force arbitration. *J. Caldarera*, 98-294 at p.4, 725 So. 2d at 551; *Kosmala v. Paul*, 569 So. 2d 158, 162 (La. App. 1 Cir. 1990).

Under either state or federal law, courts should generally apply ordinary state law principles that govern the formation of contracts. *Webb v. Investacorp, Inc.*, 89 F.3d 252, 258 (5th Cir. 1996); *see J. Caldarera*, 98-294 at pp. 4-5, 725 So. 2d at 551. In applying state law however, due regard must be given to policies in favor of arbitration, and ambiguities as to the scope of the arbitration clause itself must be resolved in favor of arbitration. *Webb*, 89 F.3d at 258.

When the words of a contract are clear and explicit and lead to no absurd consequences, no further interpretation may be made in search of the parties' intent. La. C.C. art. 2046. When the language of a contract is clear and unambiguous, a court must interpret the contract solely by reference to the four corners of the document. *Woolf & Magee v. Hughes*, 95-863, p.5 (La. App. 3 Cir.
12/6/95) 666 So.2d 1128, 1130. Whether or not the terms of a contract are ambiguous or not is a question of law, and appellate review of questions of law is simply to discern whether the trial court's interpretive decision is legally correct. *McCrory v. Terminix Serv. Co., Inc.*, 609 So.2d 883, 886 (La. App. 4 Cir.1992). Since the question of ambiguity in a contract is a matter of law, the correct standard for review would be that which is appropriate for review of legal error. *Morin v. Foret*, 98-120, p.7 (La. App. 3 Cir. 4/14/99), 736 So. 2d 279, 283, *writ denied*, 99-2022 (La. 10/29/99), 748 So. 2d 1165; *see Gonzales v. Xerox Corp.*, 320 So.2d 163 (La.1975) (providing for appellate *de novo* review of a trial court's legal error).

Defendant's reliance on the above quoted provision is misplaced. The provision cited by the defendant does not require arbitration of disputes between the trustee and the donor. Reading the provision in the context of the entire section, it is clear that the provision only gives the trustee the

ability to enter into arbitration with others. The section sets forth the numerous powers and responsibilities of the trustee, including but not limited to, the ability to invest the trust assets, to sell property that is part of the trust assets, to vote on any stocks or securities held by the trust, to manage any real estate that is part of the trust, and to compromise or settle any obligation due to or from trust assets. The provision concerning arbitration simply sets forth the ability of the trustee to engage in arbitration on behalf of the trust if arbitration is required in a particular situation. The provision does not mandate arbitration in disputes between the donor and the trustee.

As the trust agreement did not include a provision requiring arbitration between the donor and the trustee, the trial court did not err when it denied the defendant's exception of prematurity. The judgment of the trial court is affirmed.

AFFIRMED