

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS

GMAC REAL ESTATE, LLC, )  
)  
Plaintiff, )  
)  
v. )  
)  
JOSEPH CARL SECURITIES, INC., )  
JOSEPH CARL REAL ESTATE d/b/a )  
DIAMOND GMAC REAL ESTATE, )  
MICHAEL BARRERAS and RACHELLE )  
STROLE f/n/a RACHELLE SMITH, )  
)  
Defendants. )

FILED: MAY 18, 2009  
No: 09CV3007  
JUDGE GOTTSCHALL  
MAGISTRATE JUDGE SCHENKIER  
BR

**MOTION FOR CONFIRMATION OF ARBITRATION AWARD AND JUDGMENT**

Plaintiff, and Claimant in the underlying arbitration, GMAC Real Estate, LLC (“GMACRE”) by its attorney Eric R. Lifvendahl, moves this Court to confirm the arbitration award entered on May 8, 2009 by the American Arbitration Association (“AAA”) and enter judgment on behalf of GMACRE pursuant to the Federal Arbitration Act, 9 USC §9. In support of its motion, GMACRE states as follows:

1. GMACRE and Defendants (also the named Respondents in the arbitration) Joseph Carl Securities, Inc. (“JCS”), Joseph Carl Real Estate d/b/a Diamond GMAC Real Estate (“Diamond”), Michael Barreras (“Barreras”) and Rachelle Strole f/n/a Rachelle Smith (“Strole”) entered into two Franchise Agreements for real estate offices in Phoenix and Tuscon, Arizona on June 1, 2004 and April 1, 2006 respectively. A copy of the Franchise Agreements are attached as Exhibit A.

2. The parties agreed that any dispute would be resolved by arbitration before the AAA in Chicago. (Ex. A, §23B). The parties also agreed the arbitration would be governed by the Federal Arbitration Act. (*Id.*)

3. Following a dispute over the Franchise Agreements GMACRE filed an Arbitration Demand with AAA. (A copy of the First Amended Demand without exhibits is attached as Exhibit B).

4. On February 24, 25, and 26, 2009, an arbitration hearing in Case No. 51 115Y01329 07 was held in Chicago before the arbitrator Joel L. Chupack.

5. On May 8, 2009, arbitrator Chupack issued an Award of Arbitrator ("Award"). (A copy of the Award is attached as Exhibit C).

6. As states in the Award, defendant Diamond was found in default of the agreements and liable to GMACRE in the amount of \$1,841,990, for future fees under Count I.

7. As stated in the award, the Arbitrator found against Barreras and Diamond and in favor GMACRE on Count I, II and III for unpaid fees in the amount of \$703,130. This amount is owed jointly and severally.

8. The award found Strole liable under Count I for franchise fees owed between February and March 2007 in the amount of \$46,740.

9. All three Defendants were found jointly and severally liable for GMACRE's costs of \$1,376.55 and AAA administrative fees and costs of \$18,993.75.

10. The Federal Arbitration Act, which governs the disput, allows an application for confirmation of an award to be made to the United States court in and for the district within which the award was made. (9 USC §9). As the award was made in Chicago, this court has jurisdiction over the matter to confirm the award and enter judgment.

11. GMACRE requests this Court enter an Order confirming the arbitration Award and entering judgment on behalf of GMACRE and against all Defendants. Attached hereto is a

draft proposed order confirming the arbitration Award and entering judgment on behalf of GMACRE.

WHEREFORE, Plaintiff GMAC Real Estate, LLC respectfully requests the Court enter an Order confirming the arbitration Award entered by Arbitrator Joel Chupack on May 8, 2009 and entering judgment against all Defendants.

Respectfully submitted,

GMAC Real Estate, LLC, Plaintiff

By: /s/ Eric R. Lifvendahl  
One of its Attorneys

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