

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

ADM INVESTOR SERVICES, INC.,)	
)	
Movant,)	Case No. 10-CV-03266
)	
v.)	Hon. William T. Hart
)	
FLUXO-CANE OVERSEAS, LTD., and)	
MANOEL FERNANDO GARCIA,)	
)	
Respondents.)	

ORDER OF DEFAULT JUDGMENT

This cause came before the Court on Movant ADM Investor Services, Inc.'s (ADMIS) Motion for Entry of a Default Judgment confirming the April 21, 2010 Arbitration Award in Movant's favor and against Respondent Fluxo-Cane Overseas, Ltd. (Fluxo-Cane) by an arbitration panel of the National Futures Association.

1. Movant ADMIS is a Delaware corporation with its principal place of business in Chicago, Illinois.
2. Movant instituted this action on May 27, 2010 by the filing of its Motion to Confirm Arbitration Award pursuant to Chapter 2 of the Federal Arbitration Code, 9 U.S.C. § 201, *et seq.*, which implements the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958 ("New York Convention"), and in the alternative, pursuant to the Federal Arbitration Act, 9 U.S.C. §§ 1-16.
3. Respondent Fluxo Cane is a corporation organized under the laws of the British Virgin Islands with its principal place of business in Sao Paulo, Brazil. Fluxo-Cane is therefore a citizen of the United Kingdom, a signatory to the New York Convention, *JPMorgan Chase Bank*

Exhibit 1

v. Traffic Stream (BVI) Infrastructure Ltd., 536 U.S. 88 (2002), and of Brazil, also a signatory to that Convention.

4. Pursuant to Section 203 of the Federal Arbitration Code implementing the New York Convention, this Court has subject matter jurisdiction of this action because it involves the enforcement of an arbitration award against citizens of foreign states who are domiciled and have their principal place of business outside the United States, and because it involves transactions in interstate and foreign commerce. *Jain v. De Mere*, 51 F.3d 686 (7th Cir. 1995). Therefore, pursuant to 9 U.S.C. § 202, the Agreement to Arbitrate entered into between the Parties and the Arbitration Award (certified copies of both being attached to the Motion to Confirm) fall within the New York Convention.

5. In the alternative, this Court has jurisdiction over this matter based on diversity jurisdiction pursuant to 28 U.S.C. §1332(a)(2). Movant ADMIS is a citizen of the States of Delaware and Illinois, on the one hand, and respondents, on the other hand, are citizens of foreign states. The amount in controversy exceeds \$75,000.00 because ADMIS' original claim for \$157,151.33 was the amount at stake in the arbitration of the underlying dispute. *America's Money Line, Inc. v. Coleman*, 360 F.3d 782, 786-787 (7th Cir. 2004).

6. This Court has personal jurisdiction over Respondent Fluxo-Cane pursuant to the Agreement to Arbitrate between the parties which places jurisdiction and venue in any court in Cook County, Illinois, and because Fluxo-Cane has transacted business in this District.

7. On May 27, 2010, summons was duly issued by this Court to Respondent Fluxo-Cane.

8. On July 13, 2010, pursuant to Federal Rules of Civil Procedure 4(f), (h) and (l)(2) and the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters signed at the Hague, the 15th of November, 1965, the Registrar of the Supreme Court of the British Virgin Islands served the registered agent of Respondent Fluxo-Cane at Fluxo-Cane's registered office in the British Virgin Islands, as shown by the Certificate of said Registrar which Certificate was filed on October 14, 2010 [Docket No. 10].

9. Respondent Fluxo-Cane has failed to plead or otherwise defend.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:


Pursuant to Federal Rule of Civil Procedure 55(b)(2), default Judgment is hereby entered against Fluxo-Cane for failure to plead or otherwise defend, and

The April 21, 2010 Arbitration Award of an Arbitration Panel of the National Futures Association in favor of Movant ADMIS and against Respondent Fluxo-Cane is hereby confirmed, and judgment is entered in favor of ADMIS awarding it \$56,500.00 on its Claim, and denying and dismissing Fluxo-Cane's Counterclaims with prejudice.

ENTER:

DATE **OCT 21 2010**

OCT 21 2010



William T. Hart
United States District Judge