

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

DAVID B. SILIPIGNO,

Petitioner,

vs.

**1:16-cv-00170
(MAD)**

**RAYMOND JAMES FINANCIAL
SERVICES,**

Respondent.

APPEARANCES:

OF COUNSEL

OFFICE OF TIMOTHY J. O'CONNOR

TIMOTHY J. O'CONNOR, ESQ.

29 Wards Lane

Albany, New York 12204

Attorney for Petitioner

Mae A. D'Agostino, U.S. District Judge:

ORDER

Petitioner David B. Silipigno ("Petitioner") brings this action to confirm an arbitration award against Respondent Raymond James Financial Services ("Respondent") pursuant to the Federal Arbitration Act (the "FAA"), 9 U.S.C. § 9. "[A]ny time within one year after the award is made any party to the arbitration may apply . . . to the United States court in and for the district within which such award was made." *See* 9 U.S.C. § 9. However, the statute requires that "[n]otice of the application shall be served upon the adverse party, and thereupon the court shall have jurisdiction of such party as though he had appeared generally in the proceeding."¹ *See id.* In this case, no proof of notice has been submitted on this motion. The Court believes this to be a

¹ "If the adverse party is a resident of the district within which the award was made, such service shall be made upon the adverse party or his attorney as prescribed by law for service of notice of motion in an action in the same court. If the adverse party shall be a nonresident, then the notice of the application shall be served by the marshal of any district within which the adverse party may be found in like manner as other process of the court." 9 U.S.C. § 9.

mere oversight, but, without such proof, the Court has not obtained jurisdiction over Respondent. Therefore, the Court denies Petitioner's motion with leave to resubmit his motion for confirmation of his arbitration award. Upon the filing of a letter requesting this relief with notice of service on Respondent, the Court will consider the merits of this motion.

After carefully reviewing the entire record in this matter, the parties' submissions, and the applicable law, the Court, for the above-stated reasons, hereby

ORDERS that Petitioner's motion to confirm an arbitration award is **DENIED without prejudice**; and the Court further

ORDERS that Petitioner is permitted to resubmit his motion for confirmation of an arbitration award upon the submission of a letter indicating that request together with a copy of a properly filed notice of service on Respondent; and the Court further

ORDERS that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: September 14, 2016
Albany, New York



Mae A. D'Agostino
U.S. District Judge