

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL NO. 5:12CV188-RLV-DSC**

ALEX LEE, INC.,)
)
 Petitioner,)
)
v.)
)
PERFORMANCE FOOD)
GROUP, INC,)
)
 Respondent.)
_____)

ORDER

THIS MATTER is before the Court on Respondent’s “Application for Appointment of Arbitrator” (document #27), Petitioner’s “Motion for Appointment of an Arbitrator ...” (document #28) and “Memorandum ... in Support ...” (document #29), and the parties’ “Joint Notice ... of Intention to Forego Responses and Replies ...” (document #30).

This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B), and the Motions are ripe for the Court’s consideration.

On April 1, 2013, the undersigned granted Petitioner’s “Petition to Enforce Arbitration Agreement” (document #1) and “Motion to Compel Arbitration of Counterclaims ...” (document #16) and ordered the parties to submit their dispute to binding arbitration pursuant to the provisions of their Agreement. See “Memorandum and Order” (document #20). On July 10, 2013, the Honorable Richard L. Voorhees affirmed that Order. See Document #25.

The parties’ arbitration agreement specified that the arbitrator would be Grant Thornton, LLP (“Grant Thornton”). When Grant Thornton was notified, it responded that it had a potential conflict of interest. Grant Thornton provided no further details, stating that “professional

standards restrict [their] ability to share information about the situation with [the parties].” On October, 24, 2013, Grant Thornton informed the parties that due to “facts and circumstances outside of [their] control” a conflict “will preclude [their] involvement as a neutral in this matter.”

The parties have been unable to agree on a substitute arbitrator. They have agreed to file concurrent cross motions for appointment of an arbitrator and to expedite briefing. Those Motions are now ripe for determination.

The Court has fully considered the arguments, the record, and the applicable authority. For the reasons stated in its brief, the Court will, in its discretion, grant Petitioner’s “Motion for Appointment of an Arbitrator ...” (document #28) and appoint Kevin Walker of GreerWalker as substitute arbitrator.


ORDER

IT IS HEREBY ORDERED that:

1. Petitioner’s “Motion for Appointment of an Arbitrator ...” (document #28) is **GRANTED**, that is, Kevin Walker of GreerWalker is **APPOINTED** as substitute arbitrator.
2. Respondent’s “Application for Appointment of Arbitrator” (document #27) is **DENIED AS MOOT**.
3. The Clerk is directed to send copies of this Order to counsel for the parties; and to the Honorable Richard L. Voorhees.

SO ORDERED.

Signed: July 25, 2014



David S. Cayer
United States Magistrate Judge

