

**Elysium Group Holdings LLC v Mac's Meat &
Seafood Mkt., LLC**

2023 NY Slip Op 31635(U)

May 4, 2023

Supreme Court, Westchester County

Docket Number: Index No. 57195/2023

Judge: David S. Zuckerman

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This opinion is uncorrected and not selected for official publication.

DISPO Seq 1 Motion & Case
To commence the 30 day statutory time
period for appeals as of right
(CPLR 5513[a]), you are advised to
serve a copy of this order, with notice
of entry, upon all parties

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
ELYSIUM GROUP HOLDINGS LLC d/b/a EGH CAPITAL,

Petitioner,

**DECISION/ORDER
JUDGMENT**

For an Order, Pursuant to Article 75 of the
CPLR, Confirming the Parties' Arbitration
Award,

-against-

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57195/2023

MAC'S MEAT AND SEAFOOD MARKET, LLC, and
DARRELL MCINTOSH,

Respondents,

-----X
ZUCKERMAN, J.

The papers numbered 1 through 7 in NYSCEF were considered in connection with this Petition for an Order, pursuant to CPLR 7510, confirming an arbitration award, granting judgment to Petitioner, and directing the Westchester County Clerk to enter final judgment against Respondents. Respondents have defaulted in answering, moving, or appearing.

As set forth in the Petition, on March 10, 2022, Mediation & Civil Arbitration, Inc. issued an arbitration award in the principal amount of \$31,552.50 in favor of Petitioner and against

Respondents jointly and severally ("the award"). Petitioner avers that the award "has not been vacated or modified pursuant to CPLR §7511" (Petition, p. 4). Petitioner now moves for an Order confirming the award.

DISCUSSION

Pursuant to CPLR §7510,

"[t]he court shall confirm an award upon application of a party made within one year after its delivery to him, unless the award is vacated or modified upon a ground specified in section 7511."

In interpreting CPLR §7510, the word 'shall' must be given "its ordinary meaning" and the court is "directed unequivocally by CPLR 7510 to confirm an arbitration award if a timely application is made whenever the award is not vacated or modified under CPLR 7511" (*Bernstein Family Ltd. P'ship v. Sovereign Partners, L.P.*, 66 AD3d 1, 5 [1st Dept 2009]). As long as the respondent is not seeking to vacate or modify the award, "the court is not exercising the quintessentially judicial power to resolve disputes. Rather, it is exercising a ministerial function at the behest of the Legislature" (*Id.* at 7).

"It is well settled that a court may vacate an arbitration award only if it violates a strong public policy, is irrational, or clearly exceeds a specifically enumerated limitation on the arbitrator's power" (*In re Falzone (New York Cent. Mut. Fire Ins. Co.)*, 15 NY3d 530, 534 [2010]). None of those factors are present here. Therefore, the unopposed motion must be granted.

Based upon the foregoing, it is hereby

ORDERED, that the Petition to confirm the arbitration award, grant judgment to Petitioner, and direct the Westchester County Clerk to enter final judgment against Respondents is granted; and it is further

ORDERED, that the arbitration award, dated March 10, 2022, issued by Mediation & Civil Arbitration, Inc., granting judgment to Petitioner Elysium Group Holdings LLC d/b/a EGH Capital in the principal amount of \$31,552.50 is confirmed; and it is further

ORDERED, that the Clerk is directed to enter judgment in favor of Petitioner Elysium Group Holdings LLC d/b/a EGH Capital and against Respondents Mac's Meat and Seafood Market, LLC, and Darrell McIntosh, in the amount of \$31,552.50, together with interest

thereon, and together with costs and disbursements to be taxed by the Clerk upon submission of an appropriate bill of costs.

The foregoing constitutes the Opinion, Decision & Order of the Court.

Dated: White Plains, New York
May 4, 2023

A large, bold, handwritten signature in black ink, appearing to be 'D. S. Zuckerman', written over a horizontal line.

HON. DAVID S. ZUCKERMAN, J.S.C.

TO: All parties via NYSCEF