AFFIRM; and Opinion Filed May 1, 2018.

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-17-00845-CV

C TEKK SOLUTIONS, INC., Appellant
V.
SRICOM, INC., Appellee

On Appeal from the 68th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-17-01617

MEMORANDUM OPINION

Before Justices Lang-Miers, Myers, and Boatright
Opinion by Justice Lang-Miers

C Tekk Solutions, Inc. appeals the trial court's judgment confirming an arbitration award in favor of Sricom, Inc. In one issue, C Tekk argues the arbitration award should be vacated because the arbitrator manifestly disregarded the law by failing to rule that Sricom lacked capacity to recover damages. We affirm the trial court's judgment.

BACKGROUND

In a 2012 consulting services contract, C Tekk Solutions, Inc. and Sricom, Inc. agreed to resolve all disputes by arbitration. C Tekk submitted a claim against Sricom to the American Arbitration Association, and Sricom filed a counterclaim. After a hearing, an arbitrator determined that C Tekk breached the contract. The arbitrator awarded Sricom damages, attorney's fees, and expenses in a written "Final Award" on November 29, 2016. The award recites that it is "Final and in full disposition of all claims, defenses and counterclaims submitted to this Arbitration. All

claims, defenses and counterclaims not expressly granted herein are hereby denied." The award does not otherwise address C Tekk's argument that Sricom lacks capacity to recover damages.

Sricom filed an application to confirm the award in the trial court. C Tekk responded by filing a motion to vacate the award, arguing that (1) Sricom lacked capacity to recover affirmative relief; (2) the arbitrator failed to rule on this defense; and (3) the arbitrator's award should be set aside for "manifest disregard of the law" because the award did not address the lack of capacity defense.

C Tekk's motion to vacate was premised on its contention that Sricom cannot recover damages because it was not registered to do business in Texas. Citing *Coastal Liquids Transportation, L.P. v. Harris County Appraisal District*, 46 S.W.3d 880, 884–85 (Tex. 2001), C Tekk contended that Sricom's attempt to cure the problem by filing a registration of a foreign for-profit company with the Texas Secretary of State on September 1, 2016, was ineffective. C Tekk argued that (1) the filing was for a different company, not the party to the contract; (2) the filing only covered 2016, not 2012, when the parties signed the contract; and (3) Sricom did not submit evidence that it paid the required fee to the Texas Secretary of State.

The trial court rendered judgment for Sricom on the award. This appeal followed.

DISCUSSION

The parties disagree whether the Texas Arbitration Act (TAA)[1] or the Federal Arbitration Act (FAA)[2] applies to this case. C Tekk relies on the FAA, and Sricom on the TAA. In addition, the arbitrator's final award recites that "The Parties agreed that . . . the Texas Arbitration Act governs this arbitration." But Sricom also argues that even if the FAA applies, we should affirm

[1] *See* TEX. CIV. PRAC. & REM. CODE ANN. §§ 171.001–.098 (West 2011).

[2] *See* 9 U.S.C. §§ 1–16 (Westlaw through P.L. 115-140).

the trial court's judgment.[3] We review de novo a trial court's confirmation of an arbitration award under the FAA based on the entire record. *Ancor Holdings, LLC v. Peterson, Goldman & Villani, Inc.*, 294 S.W.3d 818, 826 (Tex. App.—Dallas 2009, no pet.). An arbitration award is treated the same as the judgment of a court of last resort, is presumed valid, and is entitled to great deference. *Id.* All reasonable presumptions are indulged to uphold the arbitrator's decision, and none is indulged against it. *Id.*

Under the terms of the FAA, an arbitration award must be confirmed unless it is vacated, modified, or corrected under one of the limited grounds set forth in sections 10 and 11 of the Act. *Id.*; *see also* 9 U.S.C. §§ 9–11. Courts may not substitute their judgment merely because they would have reached a different decision. *Ancor Holdings*, 294 S.W.3d at 826. Judicial review of the arbitration award is "extraordinarily narrow." *Id.* (quoting *Myer v. Americo Life, Inc.*, 232 S.W.3d 401, 408 (Tex. App.—Dallas 2007, no pet.)). Courts may not vacate an award even if it is based upon a mistake in law or fact. *Id.* Judicial scrutiny focuses on the integrity of the process, not the propriety of the result. *Id.* Although FAA section 10(a)(4) permits a trial court to vacate an award "where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter was not made," 9 U.S.C. § 10(a)(4), courts may not vacate an arbitration award under section 10(a)(4) for "errors in interpretation or application of the law or facts." *Id.* at 830 (citing *Crossmark, Inc. v. Hazar*, 124 S.W.3d 422, 429 (Tex. App.—Dallas 2004, pet. denied)).

Relying on two federal appellate cases, C Tekk argues that the trial court was required to vacate the arbitration award because it was "in manifest disregard of the law." *See Am. Cent. E. Tex. Gas Co. v. Union Pac. Res. Grp., Inc.*, 93 Fed. App'x 1 (5th Cir. Jan. 27, 2004), and *Prestige Ford v. Ford Dealer Computer Servs., Inc.*, 324 F.3d 391, 395–96 (5th Cir. 2003). C Tekk

[3] And in any event, C Tekk does not assert any issues under the TAA.

concedes that subsequent to these rulings, the United States Supreme Court held that the grounds listed in FAA section 10(a) are the exclusive grounds for vacating an arbitration award under the FAA. *Hall St. Assocs., L.L.C. v. Mattell, Inc.*, 552 U.S. 576, 581 (2008); *see also Citigroup Global Mkts., Inc. v. Bacon*, 562 F.3d 349, 350 (5th Cir. 2009) ("We conclude that *Hall Street* restricts the grounds for vacatur to those set forth in § 10 of the [FAA], and consequently, manifest disregard of the law is no longer an independent ground for vacating arbitration awards under the FAA.").[4] But C Tekk argues that "manifest disregard of the law is encompassed within section 10(a)(4)'s failure to rule on a controlling issue or ground that is a valid basis for vacating an arbitration award." Federal courts have debated this issue. *See, e.g.*, *Citigroup*, 562 F.3d at 355–57; *Wachovia Secs., LLC v. Brand*, 671 F.3d 472, 481–82 & n.7 (4th Cir. 2012) (collecting cases).

Even assuming that "manifest disregard of the law" is a basis for vacating an arbitration award, C Tekk has not met the standard for establishing it. In *Citigroup*, the court explained that manifest disregard of the law "means more than error or misunderstanding with respect to the law." *Citigroup*, 562 F.3d at 354. Instead, the term "'disregard' implies that the arbitrator appreciates the existence of a clearly governing principle but decides to ignore or pay no attention to it." *Id.* (quoting *Prestige Ford*, 324 F.3d at 395). The term is "very narrow"; it "does not include an erroneous application" of a controlling principle of law. *Id.* at 357. The parties agree that the arbitrator heard evidence and argument offered by both parties on the question of Sricom's capacity to recover on its counterclaim. This evidence included Sricom's certificate of authority to do business in Texas, the parties' contract, and evidence of the parties' alleged breaches and when those breaches occurred. The arbitrator's acceptance of Sricom's arguments and evidence instead of C Tekk's, even if erroneous, was not manifest disregard of the law.

[4] The Texas Supreme Court has reached a similar conclusion under the TAA. *Hoskins v. Hoskins*, 497 S.W.3d 490, 495–96 (Tex. 2016) (party may avoid confirmation of arbitration award only by demonstrating ground expressly listed in TAA § 171.088).

Nor do we agree that because the arbitrator's final award did not explicitly mention the capacity argument, the arbitrator necessarily failed to rule on a controlling issue for purposes of FAA section 10(a)(4). First, arbitrators need not give reasons for their awards. *Brabham v. A.G. Edwards & Sons, Inc.*, 376 F.3d 377, 385 (5th Cir. 2004).

Second, C Tekk did not bring forward a complete record of the arbitration proceedings. *See Statewide Remodeling, Inc. v. Williams*, 244 S.W.3d 564, 568 (Tex. App.—Dallas 2008, no pet.) (when non-prevailing party seeks to vacate arbitration award, it bears burden to bring forth complete record that establishes its basis for vacating award). Without a record, we presume the evidence was adequate to support the award. *Id.* Additionally, C Tekk argues that it brought forth documentary evidence in the trial court "to establish Sricom's lack of capacity as a matter of law under *Coastal Liquid*." And both C Tekk and Sricom acknowledge that this evidence was also before the arbitrator. We presume that the arbitrator considered the evidence in making his ruling. *See Ancor Holdings*, 294 S.W.3d at 826 (all reasonable presumptions are indulged to uphold arbitrator's decision, and none is indulged against it).

Third, the arbitrator's final award granted relief to Sricom and "hereby denied" "all claims, defenses and counterclaims submitted to this Arbitration" that were "not expressly granted herein." The parties agree that C Tekk's capacity argument was "submitted to this Arbitration." We do not indulge a presumption that the arbitrator either declined to rule on the capacity issue or "decide[d] to ignore or pay no attention to it." *See Citigroup*, 562 F.3d at 354 (quoting *Prestige Ford*, 324 F.3d at 395); *see also Ancor Holdings*, 294 S.W.3d at 826 (no presumptions are indulged against arbitrator's decision).

Even if the arbitrator's decision on Sricom's capacity were incorrect, we may not vacate the award. *Major League Baseball Players Ass'n v. Garvey*, 532 U.S. 504, 510–11 (2001) ("established law ordinarily precludes a court from resolving the merits of the parties' dispute on

the basis of its own factual determinations, no matter how erroneous the arbitrator's decision"); *Ancor Holdings*, 294 S.W.3d at 829 (manifest disregard of the law and gross mistake are not grounds for vacating arbitration award). We decide C Tekk's sole issue against it.

CONCLUSION

We affirm the trial court's judgment.

/Elizabeth Lang-Miers/
ELIZABETH LANG-MIERS
JUSTICE

170845F.P05

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

C TEKK SOLUTIONS, INC., Appellant	On Appeal from the 68th Judicial District Court, Dallas County, Texas
No. 05-17-00845-CV V.	Trial Court Cause No. DC-17-01617.
SRICOM, INC., Appellee	Opinion delivered by Justice Lang-Miers; Justices Myers and Boatright participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

It is **ORDERED** that appellee Sricom, Inc. recover its costs of this appeal from appellant C Tekk Solutions, Inc.

Judgment entered this 1st day of May, 2018.