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Hughes Hubbard Secures Confirmation of Arbitral Award for Mystique

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January 25, 2021 – The firm served up a decisive victory for defunct U.S. liquor importer Mystique Brands when a New York federal judge confirmed a nearly \$2 million arbitration award of attorney fees against French cognac distiller Cognac Ferrand SAS.

On Jan. 13, U.S. District Judge Paul A. Engelmayer denied Ferrand’s motion to vacate the award resulting from a dispute over \$35,000 in royalties allegedly owed to rapper Snoop Dogg, holding that the award is “final, definite and unambiguous.”

The ruling capped a decade-long legal battle over Ferrand’s termination of a 2008 agreement for Mystique to become the exclusive importer and distributor for Ferrand’s “Landy” line of cognac and brandy, and to hire Snoop Dogg to endorse Landy products.

Ferrand terminated the five-year contract in May 2009 due to Mystique’s insolvency and for approximately \$35,000 in unpaid royalties owed to Snoop Dogg. A year later, Mystique initiated arbitration before the International Centre for Dispute Resolution (ICDR) against Ferrand for wrongful termination, and Ferrand filed counterclaims for fraud and breach of contract.

The initial arbitration was stayed after Mystique filed for bankruptcy in 2013. But Ferrand launched a new arbitration in December 2017 after Mystique emerged from bankruptcy, seeking \$10 million in lost profits.

At hearings held in December 2019, HHR successfully argued that Mystique never materially breached the agreement by virtue of its insolvency or the failure to pay Snoop Dog royalties, and that Mystique should be considered the prevailing party entitled to attorney fees if it defeated Ferrand’s claims. In May 2020, the ICDR arbitrator agreed, denying all of Ferrand’s claims against Mystique, and awarding Mystique its full costs of \$1.9 million for defending the arbitration.

In July 2020, Ferrand filed a petition in New York federal court to vacate the award, arguing that the arbitrator erroneously found that Mystique was the “prevailing party” entitled to fees and costs because it did not obtain relief in the initial arbitration. HHR fired back in September with its own cross-motion seeking to enforce the award, and seeking sanctions in the form of attorney fees on the grounds that Ferrand’s attempt to vacate was frivolous.

On Jan. 4, after Mystique successfully confirmed the award in France, Ferrand sought a preliminary injunction to prevent Mystique from enforcing the award in France and seizing its assets pending the outcome of the U.S. litigation. On Jan. 6, Ferrand also requested a temporary restraining order for the same reasons, but Judge Engelmayer denied that motion three days later for lack of merit.

In his 32-page opinion issued a week later, Judge Engelmayer denied Ferrand’s petition to vacate and application for injunction, and granted Mystique’s cross-motion to confirm.

“Ferrand has not shown that any aspect of the award should be vacated for any reason,” Judge Engelmayer wrote. “And Mystique, for its part, has met its burden of proving the absence of any genuine dispute of material fact precluding confirmation of all portions of the award.”

The court declined to award Mystique sanctions, observing “Ferrand’s arguments clear the level of frivolity, albeit by a narrow margin.”

The ruling made headlines in [Global Arbitration Review](#) and [Law360](#).

Dan Weiner, Malik Havalic and Elizabeth Zhou represent Mystique in this matter. John Fellas previously led the HHR team.

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