JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SA CV 17-1063-DOC (KESx) Date: August 23, 2017

Title: AJU SMALL BUT GREAT FUND 5 V. APACHE GOLF, INC.

PRESENT:

THE HONORABLE DAVID O. CARTER, JUDGE

Deborah Goltz	Not Present
Courtroom Clerk	Court Reporter
ATTORNEYS PRESENT FOR PLAINTIFF: None Present	ATTORNEYS PRESENT FOR DEFENDANT: None Present

PROCEEDINGS (IN CHAMBERS): ORDER STAYING CASE

Before the Court is AJU Small but Great Fund 5's ("Petitioner") Petition to Confirm Foreign Arbitration Award ("Petition") (Dkt. 1). Respondent Apache Golf, Inc. ("Respondent") has filed an Opposition together with a Motion to Dismiss the Case (Dkt. 17). Having considered the parties' arguments, the Court STAYS this case pending resolution of Respondent's complaint to vacate the arbitral award, currently pending before the Seoul Central District Court.

I. Background

The following facts are drawn from Petitioner's Opening Brief for an Order to Confirm Arbitration Award ("Opening Brief") and Respondent's Opposition.

Petitioner and Respondent were adverse parties in an arbitration proceeding that took place in Seoul, South Korea. Opening Br. at 5. On or about March 21, 2017, the arbitral tribunal ordered Respondent to pay damages, costs of arbitration, and attorney's fees to Petitioner. *Id.* On May 29, 2017, Respondent filed a complaint to vacate the arbitration award in the Seoul Central District Court. Opp'n at 7.

II. Procedural History

On June 19, 2017, Petitioner filed the instant Petition with this Court. On August 8, 2017, Respondent filed an Opposition. On August 21, 2017, Petitioner filed a Reply (Dkt. 20).

III. Legal Standard

Confirmation of foreign arbitration awards is governed by the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 21 U.S.T. 2517, known as the New York Convention, and the federal laws implementing the Convention, 9 U.S.C. §§ 201–08. Section 207 provides:

> Within three years after an arbitral award falling under the Convention is made, any party to the arbitration may apply to any court having jurisdiction under this chapter for an order confirming the award as against any other party to the arbitration. The court shall confirm the award unless it finds one of the grounds for refusal or deferral of recognition or enforcement of the award specified in the said Convention.

9 U.S.C. § 207.

The New York Convention provides that a court may, in its discretion, adjourn decision on the enforcement of an award when there has been a petition to set aside the award in the country where the arbitration award was made. N.Y. Convention, *supra*, art. VI.

IV. Discussion

Respondent has filed a complaint to vacate the award in South Korea, the country where the award was made. Opp'n at 7. The Court finds it proper to adjourn decision on the enforcement of this award pending resolution of Respondent's complaint.

> The goal of the [New York Convention] and the principal purpose underlying American adoption and implementation of it, was to encourage the recognition and enforcement of commercial arbitration agreements in international contracts and to unify the standards by which agreements to arbitrate are observed and arbitral awards are enforced in the signatory countries.

Scherk v. Alberto-Culver Co., 417 U.S. 506, 520 n.15 (1974). The recognition and enforcement of arbitration agreements in international contracts is discouraged when courts come to opposite conclusions on the validity of an arbitral award. If this Court were to confirm the award and the award were subsequently overturned in Seoul Central District Court, the contrary results would undermine confidence in international arbitration agreements. To avoid such an outcome, this Court finds it appropriate to adjourn judgment on the enforcement of the arbitral award at this time.

Respondent has raised several arguments as to why the arbitral award should not be enforced at all. The Court will not rule on the merits of the Petition until the Seoul Central District Court arrives at a decision regarding the validity of the arbitral award.

Accordingly, the Court STAYS this case pending a status update informing the Court of the outcome of Respondent's complaint to vacate the arbitral award, currently pending before the Seoul Central District Court.

V. Disposition

For the reasons stated above, this case is stayed pending the decision of the Seoul Central District Court on the validity of the arbitration award at issue. Respondent is ORDERED to submit a status report **within fourteen days** of the Seoul Central District Court's decision on its complaint. The Court will address the merits of the Petition, and set a briefing schedule on Respondent's Motion to Dismiss, once the stay is lifted.

The Clerk shall serve this minute order on the parties.