

SUPREME COURT OF THE STATE OF NEW YORK - NEW YORK COUNTY

PRESENT: EILEEN BRANSTEN Justice

PART 3

ALPERT, JACOB

INDEX NO. 651728/2016

FILED

MOTION DATE 06/29/2016

M.R. BEAL & COMPANY AUG 12 2016

MOTION SEQ. NO. 001

COUNTY CLERK'S OFFICE NEW YORK

Table with 2 columns: Description of papers and No(s). Rows include Notice of Motion/Order to Show Cause - Affidavits - Exhibits (1), Answering Affidavits - Exhibits (2), Replying Affidavits (3), and Cross Motion (Yes).

Upon the foregoing papers, it is ordered that this motion is

ADJUDGED that the petition is granted for the reasons stated on the June 22, 2016 record (Alan F. Bowin, CSR) at 8:4-15:3, and the award rendered in favor of petitioner and against respondent is confirmed; and it is further

ADJUDGED that petitioner Jacob Alpert, do recover jointly and severally from respondents M.R. Beal & Company and Bernard B. Beal, the amount of \$475,000, plus interest on \$250,000 at the rate of 9% per annum from April 1, 2012 until the award is paid in full, and interest on \$225,000 at the rate of 9% per annum from April 1, 2013 until the award is paid in full, as computed by the Clerk, together with costs and disbursements, as taxed by the Clerk, and that petitioner have execution therefor; and it is further in the amount of \$48,200.27 in the amount of \$68,184.25 in the amount of \$709.00 for a total sum of \$642,153.52

ADJUDGED that respondents' cross-petition is denied.

DATED: 6/30/2016

Eileen Bransten, J.S.C.

- 1. CHECK ONE: [X] CASE DISPOSED, [] NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: MOTION IS: [X] GRANTED, [] DENIED, [] GRANTED IN PART, [] OTHER
3. CHECK IF APPROPRIATE: [] SETTLE ORDER, [] SUBMIT ORDER, [] DO NOT POST, [] FIDUCIARY APPOINTMENT, [] REFERENCE

Judgment Creditor
Jacob Alpert
165 Hunsey Place
Manhasset, NY 11030

Judgment Debtors
M.R. Beal & Company
14 Wall Street
7th Floor
New York, NY 10005

Bernard B. Beal
220 Riverside Drive, Apt 38A
New York, NY 10069

Milton A. Tingling
Clerk

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK - CIVIL TERM - PART 3

-----X
JACOB ALPERT,

Petitioner,

-against-

M.R. BEAL & COMPANY and BERNARD B. BEAL,

Respondents.
-----X

Index No. 651728/16
DECISION and ORDER

60 Centre Street
New York, N.Y.
June 22, 2016

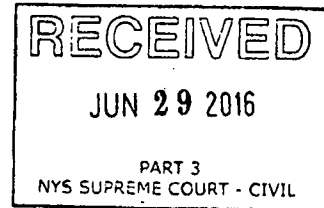
B E F O R E:

HONORABLE EILEEN BRANSTEN,
Justice

A P P E A R A N C E S:

LIDDLE & ROBINSON, L.L.P.
Attorneys for the Petitioner
800 Third Avenue
New York, N.Y. 10022
BY: BLAINE H. BORTNICK, ESQ.

LAW OFFICES OF REGINA L. DARBY
Attorneys for the Respondents
111 John Street, Suite 800
New York, N.Y. 10038
BY: REGINA L. DARBY, ESQ.
ANTHONY LOMAN, ESQ.



ALAN F. BOWIN, CSR, RMR, CRR
Official Court Reporter

ALAN F. BOWIN, CSR, RMR, CRR

Proceedings

THE COURT: For Jacob Alpert, who is the petitioner, I have, from the law offices of Liddle & Robinson, L.L.P., Blaine H. Bortnick.

MR. BORTNICK: Correct, your Honor.

THE COURT: How are you?

I don't see a piece of paper in opposition to this anywhere. Did I miss something?

MR. BORTNICK: Yes, you would have.

There was a petition to confirm the arbitration award, there was a cross-petition to vacate, and then there was a reply/reply in furtherance of the petition to confirm and opposition to vacate. But the other side, as far as we can tell, filed no reply on their petition to vacate.

THE COURT: Now, was the cross-motion to vacate the arbitration award -- was that done by the Regina L. Darby law offices?

MR. BORTNICK: It was.

THE COURT: And what's the number for Regina Darby?

THE CLERK: (212)...

THE COURT: Okay. 9, (1-212)...

THE CLERK: 480...

THE COURT: Yeah?

THE CLERK: -3236.

Proceedings

be here in a minute.

THE COURT: Well, come and check in. Okay.

So who is this other gentleman (indicating)?

MR. LOMAN: This (indicating) is Mr. Beal. He's a defendant in the case.

MR. BORTNICK: He's one of the two respondents: M.R. Beal & Company, which defaulted in the arbitration, and then Mr. Beal, who did appear.

THE COURT: Put a tie on, sir. Put a tie on.

You're an attorney-at-law?

MR. LOMAN: Yes.

THE COURT: You can come and represent whoever you want to represent.

(Mr. Loman complied.)

THE COURT: It's already 10:08.

(Pause.)

(Whereupon, Mr. Loman joined Mr. Bortnick at counsel table.)

THE COURT: All right. For the petitioner, Jacob Alpert, I have, from the Liddle & Robinson, L.L.P. firm, Blaine Bortnick.

For the respondents, M.R. Beal & Company and Bernard Beal, I have, from the Regina Darby, Esquire, law firm -- the law firm of -- I have Anthony Loman; L-o-m-a-n?

Proceedings

THE COURT: Do you know whether Anthony Loman was still involved?

MR. BORTNICK: He was. He works for Ms. Darby; he writes most of the papers, actually.

(The following was heard via the Court's speakerphone:)

VOICE: Hi. You've reached the Law Offices of Regina Darby. No one is available to take your call right now, but if you please leave your name, number and a brief message, someone will get back to you as soon as possible. Thank you very much and have a wonderful day.

I'll record your message at the tone. When you're finished, hang up or stay on the line for further options.

(Whereupon, Mr. Loman entered the courtroom.)

THE COURT: Is this Mr. Loman?

How are you?

MR. LOMAN: Hi. I'm Mr. Loman.

THE COURT: You're Mr. Loman.

Without a tie, you come to court?

MR. LOMAN: Ms. Darby was going to argue the motion. I was just here to drop by.

THE COURT: Where is Ms. Darby?

MR. LOMAN: She's parking her car, so she'll

Proceedings

MR. LOMAN: That's correct.

THE COURT: You're an attorney-at-law in the State of New York?

MR. LOMAN: Yes, I am.

THE COURT: Okay. You represent only Bernard B. Beal?

MR. LOMAN: Well, I represent Bernard Beal. I work for the law firm of Regina Darby. Ms. Darby is on her way; she said she'll be here in a few minutes. She requested that you wait.

THE COURT: "A few minutes" is not ten o'clock in the morning, is it? It's already 10:14. This Court runs -- this particular part does run on precise times. I'm here; Mr. Bortnick has been here.

Weren't you at the arbitration?

MR. LOMAN: No, I was not.

THE COURT: You did not appear? Your name is on it.

MR. LOMAN: I might have signed some documents but I -- I only did the -- some written documents. I never actually set foot in the arbitration room.

THE COURT: Well, this is what it says: "For Respondent Bernard B. Beal" -- okay? -- "Anthony Loman, [Esquire,] Law Office of Regina Darby, New York, New

Proceedings

1 York." That means that you represented the person by
2 the -- the respondent, Bernard B. Beal, according to
3 the report.
4

5 It also says that "Respondent M.R. Beal &
6 Company," otherwise known as M.R. Beal, "did not appear
7 at the hearing in this matter." So they were not
8 represented; they did not appear.

9 There were five days of hearing and Mr. -- or
10 the company, M.R. Beal & Company, never appeared during
11 any one of the five days.

12 There was also another respondent, Blaylock
13 Beal Van -- Beal Van, LLC, otherwise known as
14 "Blaylock," I think it's called, was represented by
15 Chris Pham, Esquire, of the Law Offices of Abe Lampart,
16 P.C., from San Francisco, California. They were let go
17 during the --

18 MR. BORTNICK: Right. We agreed to withdraw
19 that without prejudice.

20 THE COURT: All right.

21 MR. BORTNICK: The --

22 THE COURT: So they're not part of the
23 Beal --

24 MR. BORTNICK: I think it is important to
25 know that the company M.R. Beal did sign a submission
26 agreement. They were there at the beginning and

Proceedings

1 herself; she is present in the courtroom. Also, we
2 also have Anthony Loman, who is also from her office.

3 This is motion sequence No. 1, a motion to
4 confirm an arbitration award that was held before the
5 FINRA Dispute Resolution. It was held over the course
6 of time. I'm just trying to look at when -- the award
7 was signed on March 3rd, 2016.

8 And, in fact, the three arbitrators signed
9 the document, one on March 1st; the second -- March
10 1st -- that was the Presiding Chairperson -- Ira S.
11 Cure, signed the award, or the decision; then Adelfa
12 Ann Lugo signed it on March 2nd, 2016; and the
13 Non-Public Arbitrator, Donald Raymond McNally, signed
14 it on March 3rd.

15 Thereafter, the petitioner filed his petition
16 to confirm the arbitration award, and before me is the
17 Amended Cross-Petition to Vacate the Arbitration Award
18 and Deny Petitioner's Petition to Confirm the Award.

19 So I have the papers in front of me,
20 everything that is necessary and the Court is prepared
21 to indeed give a decision in this matter, so we're
22 ready to go.

23 This is background:

24 Petitioner, Jacob Alpert, was a municipal
25 bond trader employed by Respondent M.R. Beal & Company,
26

Proceedings

1 then --

2 (Whereupon, Ms. Darby entered the courtroom.)

3 THE COURT: Ma'am, you have to check in.

4 MR. BORTNICK: They were there at the
5 beginning of the process, where they signed the
6 arbitration submission agreement; the company, that is,
7 and then defaulted thereafter.

8 THE COURT: Ms. Darby has now arrived, at a
9 quarter after ten this morning. She is now in the
10 courtroom. We will wait on her signing herself in.

11 MR. LOMAN: Your Honor, can I get my bag? I
12 have a bag with files in the hallway.

13 THE COURT: Yeah, I would suggest you go and
14 get them.

15 MR. LOMAN: Thank you.

16 THE COURT: Legal files should not be left in
17 the hallway.

18 (Whereupon, Mr. Loman left the courtroom.)
19 (Pause.)

20 THE COURT: Set up.

21 (Whereupon, Mr. Loman re-entered the
22 courtroom and returned to counsel table, along with
23 Ms. Darby.)

24 THE COURT: I have, now present before me,
25 from the Law Offices of Regina Darby, Regina L. Darby
26

Proceedings

1 otherwise known as the "Firm." Respondent Bernard Beal
2 is the founder of the Firm.

3 On February 7th, 2014, Alpert commenced a
4 FINRA arbitration against Bernard Beal and the Firm.
5 The dispute stems from Respondent's failure to pay
6 Alpert commissions that he allegedly earned.

7 Following a five-day evidentiary hearing, of
8 which the transcripts of these five days are included
9 in the Respondent's amended cross-petition to vacate
10 the arbitration award as Exhibit H, the FINRA panel,
11 consisting of three people, issued an award in Alpert's
12 favor on March 3rd, 2016. This award was for a total
13 of \$628,928.09, for which Respondents were held to be
14 jointly and severally liable.

15 On March 31st, 2016, Alpert filed a petition
16 to confirm the arbitration award in this court.
17 Respondents then filed a cross-petition to vacate the
18 award on April 5th, 2016, which was amended as of right
19 on April 21st, 2016.

20 So we're dealing with motion sequence No. 1,
21 Petition to Confirm Award, Cross-Petition to Vacate.

22 The standards:

23 "Under settled law, the arbitration of
24 disputes concerning employment in the securities
25 industry... is governed by the Federal Arbitration
26

1 Proceedings
 2 Act," otherwise known as "FAA," citing to --
 3 (Whereupon, Ms. Darby's cell phone sounded
 4 and then was silenced.)
 5 MS. DARBY: I apologize; I didn't realize it
 6 was on, your Honor.
 7 (Pause.)
 8 THE COURT: -- citing to Salvano versus
 9 Merrill Lynch Pierce Fenner & Smith, 85 N.Y.2d 173, at
 10 page 180, a 1995 case.
 11 Even though Respondents bring their
 12 cross-motion pursuant to CPLR section 7511, the Court
 13 must consider both the petition and the cross-petition
 14 under the FAA.
 15 Section 9 of the FAA provides that "at any
 16 time within one year after the award is made, any party
 17 to the arbitration may apply to the court so specified
 18 for an order confirming the award, and thereupon the
 19 court must grant such an order unless the award is
 20 vacated, modified, or corrected..." and the emphasis is
 21 added.
 22 Alpert brought his petition to confirm within
 23 one year of the award. Nevertheless, Respondents seek
 24 vacatur.
 25 FAA Section 10 provides very limited grounds
 26 upon which an arbitration award may be vacated:

1 Proceedings
 2 provisions of Section 10 apply. Instead, best
 3 construed, they argue that the panel issued an award
 4 that was either in "manifest disregard of the law" or
 5 irrational. Neither doctrine applies.
 6 As it concerns manifest disregard:
 7 As the Court of Appeals has explained,
 8 manifest disregard "is a doctrine of last resort
 9 limited to the rare occurrences of apparent 'egregious
 10 impropriety' on the part of the arbitrators, where none
 11 of the provisions of the FAA apply. The doctrine of
 12 manifest disregard, therefore, gives extreme deference
 13 to the arbitrators." Citing to Wien & Malkin LLP
 14 versus Helmsley-Spear, Incorporated, 6 N.Y.3d 471, at
 15 pages 480-81, a 2006 case.
 16 "Manifest disregard" requires "more than a
 17 simple error in law or a failure by the arbitrators to
 18 understand or apply it; and, it is more than an
 19 erroneous interpretation of the law." Same citation at
 20 page 481.
 21 Nevertheless, Respondents premise their
 22 motion on the argument that the arbitrator erred in
 23 interpreting the law:
 24 They argue that Bernard Beal should not be
 25 held individually liable since for Alpert's unpaid
 26 bonuses and -- and... I'll reread that.

1 Proceedings
 2 "(1) where the award was procured by
 3 corruption, fraud, or undue means;
 4 "(2) where there was evident partiality or
 5 corruption in the arbitrators, or either of them;
 6 "(3) where the arbitrators were guilty of
 7 misconduct in refusing to postpone the hearing, upon
 8 sufficient cause shown, or in refusing to hear evidence
 9 pertinent and material to the controversy; or of any
 10 other misbehavior by which the rights of any party have
 11 been prejudiced; or
 12 "(4) where the arbitrators exceeded their
 13 powers, or so imperfectly executed them that a mutual,
 14 final and definitive award upon the subject matter
 15 submitted was not made."
 16 In addition to the four grounds listed in
 17 Section 10, courts recognize an additional two grounds
 18 for vacating awards under the FAA: one, manifest
 19 disregard of the law and, two, irrationality. See
 20 Morgan Stanley DW Incorporated versus Afridi, 13
 21 A.D.3d 248, at page 250, a First Department 2004 case.
 22 None of the bases for vacatur apply here.
 23 Respondents offer a scattershot critique of
 24 the arbitration panel's ruling, which distills down to
 25 a disagreement with the outcome.
 26 Respondents do not contend that the four

1 Proceedings
 2 They argue that Bernard Beal should not be
 3 held individually liable for Alpert's unpaid bonuses
 4 and that the panel erred in applying the
 5 Debtor-Creditor Law. Amended Counter-Petition at
 6 paragraphs 47 through 74.
 7 Next, Respondents maintain that the
 8 arbitrators adopted an erroneous interpretation of
 9 Alpert's employment contract by finding that Alpert was
 10 entitled to payment of a discretionary bonus earned
 11 while he worked at the Firm after he left the Firm's
 12 employment. Again Amended Counter-Petition at
 13 paragraphs 75 through 104.
 14 Respondents also contend that the arbitrators
 15 made an erroneous evidentiary ruling, i.e. that an
 16 employment handbook was inadmissible. Again, same
 17 counter-petition, Amended Counter-Petition, at
 18 paragraphs 105 through 111.
 19 Respondents argue that the weight of the
 20 evidence does not support the award. Amended
 21 Counter-Petition at paragraphs 112 through 132.
 22 Finally, they contend that the arbitrators
 23 should not have deemed Beal in default, notwithstanding
 24 the fact that he failed to appear for the five-day
 25 hearing.
 26 Was Beal also not at the hearing?

Proceedings

MR. BORTNICK: No, your Honor, Beal was there and defended. It was just the company.

THE COURT: Just the company, M.R. Beal.

... have deemed M.R. Beal in default -- M.R. Beal & Company in default -- notwithstanding the fact that M.R. Beal failed to appear for the five-day hearing.

That, again, is the Counter -- cites to the Amended Counter-Petition at paragraphs 133 to 137.

None of these arguments demonstrate the rare "egregious impropriety" needed to vacate an arbitration award on manifest disregard grounds.

So then we go on to the issue of irrationality:

Furthermore, Respondents have failed to demonstrate that the award is irrational.

Again, at most, Beal, as the individual, and the Firm have demonstrated a disagreement with the award but such disagreement does not demonstrate irrationality.

Accordingly, Respondents' cross-petition to vacate the March 3rd, 2016 FINRA award in favor of Alpert and against M.R. Beal & Company and Bernard B. Beal is denied, and the petition to confirm the award is hereby granted.

Proceedings

And that constitutes the Decision and Order of the Court.

So I don't think we need anything else.

What I'm going to ask you to do is to get me a copy of the minutes, and once I get a copy of the minutes, I will give you the gray sheet, plus the decision on the back of it, and that will be the appealable order. All right?

Okay, thank you.

Have a good day.

* * *

CERTIFIED to be a true and accurate transcript of the proceedings.


ALAN F. BOWIN, CSR, RMR, CRR
Official Court Reporter

<p>A</p> <p>Abe 6:15 according 6:3 Accordingly 14:22 accurate 15:13 Act 10:2 actually 3:5 5:22 added 10:21 addition 11:16 additional 11:17 Adelfa 8:12 adopted 13:8 Afridi 11:20 after 7:10 10:16 13:11 again 13:12,16 14:9 14:18 against 1:5 9:5 14:24 agreed 6:18 agreement 6:26 7:7 ALAN 1:24 15:16 allegedly 9:7 along 7:23 Alpert 1:3 2:2 4:21 8:25 9:4,7,16 10:22 13:9 14:24 Alpert's 9:12 12:25 13:3,9 already 4:16 5:13 amended 8:18 9:10 9:19 13:5,12,17 13:20 14:10 Ann 8:13 another 6:12 Anthony 1:21 3:2 4:25 5:25 8:3 anything 15:4 anywhere 2:8 apologize 10:5 apparent 12:9 appealable 15:9 Appeals 12:7 appear 4:9 5:18 6:6 6:8 13:24 14:7 appeared 6:10 applies 12:5 apply 10:17 11:22</p>	<p>12:2,11,18 applying 13:4 April 9:19,20 arbitration 2:11,17 4:9 5:16,23 7:7 8:5,17,18 9:5,11 9:17,24,26 10:17 10:26 11:24 14:12 arbitrator 8:14 12:22 arbitrators 8:9 11:5,6,12 12:10 12:13,17 13:8,14 13:22 argue 3:23 12:3,24 13:2,19 argument 12:22 arguments 14:11 arrived 7:9 Attorneys 1:15,19 attorney-at-law 4:11 5:3 available 3:9 Avenue 1:16 award 2:11,17 8:5 8:7,12,17,18,19 9:11,12,13,17,19 9:22 10:16,18,19 10:23,26 11:2,14 12:3 13:20 14:13 14:17,20,23,25 awards 11:18 A.D.3d 11:21</p> <p>B</p> <p>B 1:6,11 5:7,25 6:3 14:24 back 3:11 15:8 background 8:24 bag 7:12,13 bases 11:22 Beal 1:6,6 4:5,8,9 4:23,24 5:7,8,25 6:3,5,6,10,13,13 6:23,25 8:26 9:2,5 12:24 13:2,23,26 14:2,4,5,6,7,18,24 14:25</p>	<p>before 7:25 8:5,17 beginning 6:26 7:6 Bernard 1:6 4:24 5:6,8,25 6:3 9:2,5 12:24 13:2 14:24 best 12:2 Blaine 1:17 2:4 4:22 Blaylock 6:12,14 bond 8:26 bonus 13:10 bonuses 12:26 13:3 Bortnick 1:17 2:4,5 2:9,19 3:4 4:7,18 4:22 5:15 6:18,21 6:24 7:5 14:2 both 10:13 BOWIN 1:24 15:16 BRANSTEN 1:12 brief 3:11 bring 10:11 brought 10:22</p> <p>C</p> <p>C 1:14 California 6:16 call 3:9 called 6:14 car 3:26 case 4:6 10:10 11:21 12:15 cause 11:8 cell 10:3 Centre 1:8 CERTIFIED 15:13 Chairperson 8:11 check 4:3 7:4 Chris 6:15 citation 12:19 cites 14:9 citing 10:2,8 12:13 CIVIL 1:2 CLERK 2:22,24,26 come 3:22 4:3,13 commenced 9:4 commissions 9:7 company 1:6 4:8 4:23 6:6,10,10,25</p>	<p>7:7 8:26 14:3,4,6 14:24 complied 4:15 concerning 9:25 concerns 12:6 confirm 2:10,13 8:5,17,19 9:17,22 10:22 14:25 confirming 10:18 consider 10:13 consisting 9:12 constitutes 15:2 construed 12:3 contend 11:26 13:14,22 contract 13:9 controversy 11:9 copy 15:6,6 correct 2:5 5:2 corrected 10:20 corruption 11:3,5 counsel 4:19 7:23 Counter 14:9 counter-petition 13:5,12,17,17,21 14:10 COUNTY 1:2 course 8:6 court 1:2,25 2:2,6 2:16,20,23,25 3:2 3:18,21,22,25 4:3 4:10,13,16,20 5:3 5:6,12,14,18,24 6:20,22 7:4,9,14 7:17,21,25 8:21 9:17 10:8,12,17 10:19 12:7 14:4 15:3,16 courtroom 3:17 7:3 7:11,19,23 8:2 courts 11:17 Court's 3:6 CPLR 10:12 critique 11:23 cross-motion 2:16 10:12 cross-petition 2:11 8:18 9:10,18,22</p>	<p>10:13 14:22 CRR 1:24 15:16 CSR 1:24 15:16 Cure 8:12</p> <p>D</p> <p>Darby 1:19,21 2:18 2:21 3:5,9,23,25 4:24 5:9,9,26 7:3 7:9,24,26,26 10:5 Darby's 10:3 day 3:13 15:11 days 6:9,11 9:9 dealing 9:21 Debtor-Creditor 13:5 decision 1:9 8:12 8:22 15:2,8 deemed 13:23 14:5 default 13:23 14:5 14:6 defaulted 4:8 7:8 defendant 4:6 defended 14:3 deference 12:12 definitive 11:14 demonstrate 14:11 14:17,20 demonstrated 14:19 denied 14:25 Deny 8:19 Department 11:21 disagreement 11:25 14:19,20 discretionary 13:10 dispute 8:6 9:6 disputes 9:25 disregard 11:19 12:4,6,8,12,16 14:13 distills 11:24 doctrine 12:5,8,11 document 8:10 documents 5:21,22 Donald 8:14 done 2:17</p>
--	--	--	--	--

down 11:24 drop 3:24 during 6:10,17 DW 11:20	Federal 9:26 Fenner 10:9 few 5:10,12 filed 2:14 8:16 9:16 9:18 files 7:13,17 final 11:14 Finally 13:22 finding 13:9 finished 3:15 FINRA 8:6 9:5,11 14:23 firm 4:22,25,25 5:9 9:2,3,5 13:11 14:19 Firm's 13:11 First 11:21 five 6:9,11 9:9 five-day 9:8 13:24 14:7 following 3:6 9:8 foot 5:22 founder 9:3 four 11:16,26 Francisco 6:16 fraud 11:3 from 2:3 4:21,24 6:16 7:26 8:3 9:6 front 8:20 further 3:16 furtherance 2:12 Furthermore 14:16	<hr/> H <hr/> H 1:17 2:4 9:11 hallway 7:13,18 handbook 13:16 hang 3:15 hear 11:8 heard 3:6 hearing 6:7,9 9:8 11:7 13:25,26 14:8 held 8:5,6 9:14 12:25 13:3 Helmsley-Spear 12:14 her 3:26 5:10 7:11 8:3 herself 7:11 8:2 Hi 3:8,20 Honor 2:5 7:12 10:6 14:2 HONORABLE 1:12	14:15,21 issue 14:14 issued 9:12 12:3 i.e 13:15	Lugo 8:13 Lynch 10:9 L-o-m-a-n 4:26 L.L.P 1:15 2:4 4:22
<hr/> E <hr/> E 1:11,11,14,14 earned 9:7 13:10 egregious 12:9 14:12 EILEEN 1:12 either 11:5 12:4 emphasis 10:20 employed 8:26 employment 9:25 13:9,12,16 entered 3:17 7:3 entitled 13:10 erred 12:22 13:4 erroneous 12:19 13:8,15 error 12:17 ESQ 1:17,21,21 Esquire 4:24 5:26 6:15 Even 10:11 everything 8:21 evidence 11:8 13:20 evident 11:4 evidentiary 9:8 13:15 exceeded 11:12 executed 11:13 Exhibit 9:11 explained 12:7 extreme 12:12	<hr/> G <hr/> gentleman 4:4 give 8:22 15:7 gives 12:12 go 6:16 7:14 8:23 14:14 going 3:23 15:5 good 15:11 governed 9:26 grant 10:19 granted 14:26 gray 15:7 grounds 10:25 11:16,17 14:13 guilty 11:6	<hr/> I <hr/> imperfectly 11:13 important 6:24 impropriety 12:10 14:12 inadmissible 13:16 included 9:9 Incorporated 11:20 12:14 indeed 8:22 Index 1:8 indicating 4:4,5 individual 14:18 individually 12:25 13:3 industry 9:26 Instead 12:2 interpretation 12:19 13:8 interpreting 12:23 involved 3:3 Ira 8:11 irrational 12:5 14:17 irrationality 11:19	<hr/> J <hr/> Jacob 1:3 2:2 4:21 8:25 John 1:20 joined 4:18 jointly 9:15 June 1:9 just 3:24 8:7 14:3,4 Justice 1:12	<hr/> M <hr/> made 10:16 11:15 13:15 maintain 13:7 Malkin 12:13 manifest 11:18 12:4,6,8,12,16 14:13 March 8:8,10,10,13 8:15 9:13,16 14:23 material 11:9 matter 6:7 8:22 11:14 may 10:17,26 Ma'am 7:4 McNally 8:14 means 6:2 11:3 Merrill 10:9 message 3:11,14 might 5:20 minute 4:2 minutes 5:10,12 15:6,7 misbehavior 11:10 misconduct 11:7 miss 2:8 modified 10:20 more 12:16,18 Morgan 11:20 morning 5:13 7:10 most 3:5 14:18 motion 3:24 8:4,4 9:21 12:22 much 3:12 municipal 8:25 must 10:13,19 mutual 11:13 M.R 1:6 4:8,23 6:5 6:6,10,25 8:26 14:4,5,5,7,24
<hr/> F <hr/> F 1:11,24 15:16 FAA 10:2,14,15,25 11:18 12:11 fact 8:9 13:24 14:6 failed 13:24 14:7 14:16 failure 9:6 12:17 far 2:14 favor 9:13 14:23 February 9:4		<hr/> K <hr/> know 3:2 6:25 known 6:6,13 9:2 10:2	<hr/> L <hr/> L 1:19,21 2:18 7:26 Lampart 6:15 last 12:8 law 1:19 2:3,18 3:8 4:25,25 5:9,26 6:15 7:26 9:24 11:19 12:4,17,19 12:23 13:5 leave 3:10 left 7:17,19 13:11 Legal 7:17 let 6:16 liable 9:15 12:25 13:3 Liddle 1:15 2:3 4:21 limited 10:25 12:9 line 3:15 listed 11:16 LLC 6:13 LLP 12:13 Loman 1:21 3:2,17 3:18,20,20,21,23 3:26 4:5,12,15,18 4:25 5:2,5,8,17,20 5:25 7:12,16,19 7:22 8:3 look 8:7	<hr/> N <hr/> N 1:14

<p>name 3:10 5:18 necessary 8:21 need 15:4 needed 14:12 Neither 12:5 never 5:22 6:10 Nevertheless 10:23 12:21 New 1:2,2,9,16,20 5:4,26,26 Next 13:7 none 11:22 12:10 14:11 Non-Public 8:14 notwithstanding 13:23 14:6 number 2:20 3:10 N.Y 1:9,16,20 N.Y.2d 10:9 N.Y.3d 12:14</p> <hr/> <p style="text-align: center;">O</p> <p>O 1:11 occurrences 12:9 offer 11:23 office 5:26 8:3 offices 1:19 2:3,18 3:8 6:15 7:26 Official 1:25 15:16 okay 2:23 4:3 5:6 5:25 15:10 once 15:6 one 3:9 4:7 6:11 8:10 10:16,23 11:18 only 5:6,21 opposition 2:7,13 options 3:16 order 1:9 10:18,19 15:2,9 other 2:14 4:4 11:10 otherwise 6:6,13 9:2 10:2 outcome 11:25 over 8:6 o'clock 5:13</p> <hr/> <p style="text-align: center;">P</p>	<p>P 1:14,14 page 10:10 11:21 12:20 pages 12:15 panel 9:11 12:3 13:4 panel's 11:24 paper 2:7 papers 3:5 8:20 paragraphs 13:6 13:13,18,21 14:10 parking 3:26 part 1:2 5:14 6:22 12:10 partiality 11:4 particular 5:14 party 10:16 11:10 Pause 4:17 7:20 10:7 pay 9:6 payment 13:10 people 9:12 person 6:2 pertinent 11:9 petition 2:10,13,15 8:16,19 9:16,22 10:13,22 14:25 petitioner 1:4,15 2:3 4:20 8:16,25 Petitioner's 8:19 Pham 6:15 phone 10:3 piece 2:7 Pierce 10:9 please 3:10 plus 15:7 possible 3:12 postpone 11:7 powers 11:13 precise 5:15 prejudice 6:19 prejudiced 11:11 premise 12:21 prepared 8:21 present 7:25 8:2 Presiding 8:11 proceedings 2:1 3:1 4:1 5:1 6:1 7:1</p>	<p>8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1,13 process 7:6 procured 11:2 provides 10:15,25 provisions 12:2,11 pursuant 10:12 Put 4:10,10 P.C 6:16</p> <hr/> <p style="text-align: center;">Q</p> <p>quarter 7:10</p> <hr/> <p style="text-align: center;">R</p> <p>R 1:11,14 rare 12:9 14:11 Raymond 8:14 reached 3:8 ready 8:23 realize 10:5 recognize 11:17 record 3:14 refusing 11:7,8 Regina 1:19,21 2:18,20 3:9 4:24 5:9,26 7:26,26 reply 2:15 reply/reply 2:12 report 6:4 Reporter 1:25 15:16 represent 4:13,14 5:6,8 represented 6:2,8 6:14 requested 5:11 requires 12:16 reread 12:26 Resolution 8:6 resort 12:8 respondent 5:25 6:3,5,12 8:26 9:2 respondents 1:7,19 4:8,23 9:14,18 10:11,23 11:23,26 12:21 13:7,14,19 14:16,22 Respondent's 9:6</p>	<p>9:10 returned 7:23 re-entered 7:22 right 3:10 4:20 6:18,20 9:19 15:9 rights 11:10 RMR 1:24 15:16 Robinson 1:15 2:4 4:21 room 5:23 ruling 11:24 13:15 run 5:14 runs 5:14</p> <hr/> <p style="text-align: center;">S</p> <p>S 1:14 8:11 Salvano 10:8 same 12:19 13:16 San 6:16 says 5:24 6:5 scattershot 11:23 second 8:10 section 10:12,15,25 11:17 12:2 securities 9:25 see 2:7 11:19 seek 10:23 sequence 8:4 9:21 set 5:22 7:21 settled 9:24 severally 9:15 sheet 15:7 she'll 3:26 5:10 shown 11:8 side 2:14 sign 6:25 signed 5:20 7:6 8:8 8:9,12,13,14 signing 7:11 silenced 10:4 simple 12:17 since 12:25 sir 4:10 Smith 10:9 some 5:20,21 someone 3:11 something 2:8 soon 3:12</p>	<p>sounded 10:3 speakerphone 3:7 specified 10:17 standards 9:23 Stanley 11:20 State 1:2 5:4 stay 3:15 stems 9:6 still 3:3 Street 1:8,20 subject 11:14 submission 6:25 7:7 submitted 11:15 sufficient 11:8 suggest 7:14 Suite 1:20 support 13:20 SUPREME 1:2</p> <hr/> <p style="text-align: center;">T</p> <p>table 4:19 7:23 take 3:9 tell 2:14 ten 5:12 7:10 TERM 1:2 thank 3:12 7:16 15:10 their 2:15 10:11 11:12 12:21 think 6:14,24 15:4 Third 1:16 though 10:11 three 8:9 9:12 through 13:6,13,18 13:21 tie 3:22 4:10,10 time 8:7 10:16 times 5:15 tone 3:14 total 9:13 trader 8:26 transcript 15:13 transcripts 9:9 true 15:13 trying 8:7 two 4:7 11:17,19</p> <hr/> <p style="text-align: center;">U</p>
---	---	--	--	---

under 9:24 10:14 11:18	5:4,26 6:2	4 11:12
understand 12:18	<hr/>	47 13:6
undue 11:3	\$	471 12:14
unless 10:19	\$628,928.09 9:14	480 2:24
unpaid 12:25 13:3	<hr/>	480-81 12:15
<hr/>	1	481 12:20
V	1 8:4 9:21 11:2	<hr/>
vacate 2:12,13,15	1st 8:10,11	5
2:17 8:18 9:10,18	1-212 2:23	5th 9:19
9:22 14:12,23	10 10:25 11:17 12:2	<hr/>
vacated 10:20,26	10:08 4:16	6
vacating 11:18	10:14 5:13	6 12:14
vacatur 10:24	10022 1:16	60 1:8
11:22	10038 1:20	651728/16 1:8
Van 6:13,13	104 13:13	<hr/>
versus 10:8 11:20	105 13:18	7
12:14	111 1:20 13:18	7th 9:4
very 3:12 10:25	112 13:21	74 13:6
via 3:6	13 11:20	75 13:13
VOICE 3:8	132 13:21	7511 10:12
<hr/>	133 14:10	<hr/>
W	137 14:10	8
wait 5:11 7:11	173 10:9	800 1:16,20
want 4:14	180 10:10	85 10:9
way 5:10	1995 10:10	<hr/>
weight 13:19	<hr/>	9
Well 4:3 5:8,24	2	9 2:23 10:15
were 6:7,9,16,26	2 11:4	
7:5 9:14 11:6	2nd 8:13	
Weren't 5:16	2004 11:21	
we're 8:22 9:21	2006 12:15	
while 13:11	2014 9:4	
Wien 12:13	2016 1:9 8:8,13	
withdraw 6:18	9:13,16,19,20	
wonderful 3:13	14:23	
work 5:9	21st 9:20	
worked 13:11	212 2:22	
works 3:4	22 1:9	
writes 3:5	248 11:21	
written 5:21	250 11:21	
<hr/>	<hr/>	
X	3	
X 1:3,8	3 1:2 11:6	
<hr/>	3rd 8:8,15 9:13	
Y	14:23	
Yeah 2:25 7:14	31st 9:16	
year 10:16,23	3236 2:26	
York 1:2,2,9,16,20	<hr/>	
	4	

NEW YORK SUPREME COURT
COUNTY OF NEW YORK

----- X
: Index No. 651728/2016
: IAS Part 3
: Justice Eileen Bransten
: **BILL OF COSTS AND**
: **ATTORNEY AFFIRMATION**
: ----- X

JACOB ALPERT,

Petitioner,

-against-

M.R. BEAL & COMPANY AND BERNARD B. BEAL,

Respondents.

BILL OF COSTS

Costs, Fees, and Disbursements

Proceedings before Note of Issue is filed	\$200
Filing Fees (Notice of Petition (\$45), RJI (\$95), Index Fee (\$210)).....	\$350
Transcript Fee of 6/22/16 Proceedings.....	\$114
Prospective Sheriff's fees.....	\$45
Working Meals	\$11.33
Legal Research (Westlaw).....	\$171.11
Travel and Taxi.....	\$78.59
GRAND TOTAL.....	\$970.03 709.00

AFFIRMATION OF BLAINE H. BORTNICK

The undersigned, Blaine H. Bortnick, an attorney duly admitted to practice law in the courts of the State of New York, hereby affirms the following under penalty of perjury:

- I am a partner of Liddle & Robinson, L.L.P., attorneys for Petitioner Jacob Alpert and, as such, am fully familiar with the facts and circumstances of the above captioned action.
- The foregoing costs are correct and were necessarily incurred in this action, and are reasonable in amount.

HEREBY CERTIFY THAT I HAVE
ADJUSTED THIS BILL OF COSTS AT
\$ 709.00

AUG 12 2016

Milton A. Tingling

CLERK

3. The services for which fees have been charged were actually and necessarily performed and are reasonable in amount.

Dated: New York, New York
August 11, 2016



Blaine H. Bortnick
Liddle & Robinson, L.L.P.
800 Third Avenue
New York, New York 10022
(212) 687-8500

Counsel for Petitioner Jacob Alpert

FILED

AUG 12 2016

**COUNTY CLERK'S OFFICE
NEW YORK**

ALAN F. BOWIN, CSR, RMR, CRR
OFFICIAL COURT REPORTER
SUPREME COURT, N.Y. COUNTY
60 CENTRE STREET - ROOM 420
NEW YORK, N.Y. 10007
TELEPHONE: (646) 386-3067
(Tax I.D.# 06-1379123)

June 23, 2016

TO:
LIDDLE & ROBINSON, L.L.P.
800 Third Avenue
New York, N.Y. 10022
(212) 687-8500

Invoice Via E-mail

ATTN: BLAINE H. BORTNICK, ESQ.

TITLE OF ACTION: Jacob Alpert
v.
M.R. Beal & Company, et al.

BEFORE: Eileen Bransten, J.S.C.

INDEX NO: 651728/16

DATE OF PROCEEDINGS: June 22, 2016

TRANSCRIPT FEE: \$114.00

REMARKS: Decision and Order
Confirming Arbitration Award

Thank you

051728/16

Order + Judgment
Attorney for Judgment Creditor
Liddle + Robinson, L.L.P.
800 Third Avenue
New York, NY 10022
(212) 687-8500

1-2
**FILED AND
DOCKETED**
AUG 12 2016
AT 1:39 PM
N.Y. CO. CLK'S OFFICE