UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

J. Gary Shansby v. Edrington USA, Inc., et al.

Shansby · No. 22-cv-06907-JSC · Decided March 9, 2023

SUMMARY

The United States District Court for the Northern District of California grants Edrington USA's motion to compel arbitration in a dispute arising from a tequila distribution venture. The court holds that the parties' Membership Interest Purchase Agreement contains a broad arbitration clause and clearly and unmistakably delegates arbitrability questions to the arbitrator through incorporation of the JAMS rules. The claims against Edrington USA are stayed pending arbitration, while the plaintiff receives additional time to serve the remaining defendants.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Jacqueline Scott Corley
JURISDICTION	United States District Court for the Northern District of California
DECIDED	March 9, 2023
DOCKET	22-cv-06907-JSC
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Edrington USA moved to compel arbitration under an arbitration provision and delegation clause in a Membership Interest Purchase Agreement. The district court granted the motion and stayed the claims against Edrington USA pending arbitration.
STANDARD OF REVIEW	The court applied the Federal Arbitration Act's two gateway inquiries: whether a valid arbitration agreement exists and whether it encompasses the dispute. Because the agreement delegated arbitrability by clear and unmistakable evidence, the court assessed only whether there was a good-faith argument that the claims fell within the arbitration clause.
PRECEDENTIAL VALUE	nonprecedential district court order
PARTIES	Edrington USA, Inc. v. J. Gary Shansby, trustee of the Shansby Community Property Trust

TOPICS

arbitration civil procedure contracts commercial litigation

PRACTICE AREAS

arbitration civil procedure contracts commercial litigation

QUESTIONS PRESENTED

1. Whether a valid arbitration agreement existed between Shansby and Edrington USA.
2. Whether incorporation of the JAMS arbitration rules clearly and unmistakably delegated threshold arbitrability questions to the arbitrator.
3. Whether there was a good-faith argument that Shansby's claims related to or were connected with the Purchase Agreement's broad arbitration clause.

HOLDINGS

1. A valid arbitration agreement existed because Shansby signed the Purchase Agreement containing the arbitration provision.
2. The Purchase Agreement clearly and unmistakably delegated threshold arbitrability questions to the arbitrator because it incorporated the JAMS arbitration rules.
3. The claims against Edrington USA were subject to arbitration because there was a good-faith argument that each claim related to or was connected with the Purchase Agreement's broad arbitration clause.

KEY QUOTATIONS

> *"As there is a good faith argument Shansby's claims relate to or are connected with the agreement, the Court must compel arbitration pursuant to the delegation clause."* (at 1)

> *"It applies to any claim that is related to or connected with the Purchase Agreement, not just claims that are based upon or allege a breach of the Purchase Agreement."* (at 5)

> *"As the Purchase Agreement delegates arbitrability to the arbitrator, and as there is a good faith argument Shansby's claims are covered by the arbitration provision, the claims against Edrington USA are compelled to arbitration pursuant to the Purchase Agreement arbitration provision's delegation clause."* (at 6)

FACTUAL BACKGROUND

Shansby founded the Tequila Partida brand, and his wholly owned company entered into several distribution and collaboration agreements with Edrington entities. After alleging that Edrington mismanaged the brand and impaired his ownership interest, Shansby sold his interest to a third party under a December 31, 2021 Membership Interest Purchase Agreement. Shansby's complaint asserted claims based principally on the distribution agreements but sought damages and restitution connected to amounts paid or payable under the Purchase Agreement, which contained a broad arbitration provision and delegation clause.

PROCEDURAL HISTORY

Shansby filed state-law contract and related claims in state court. Edrington removed the action to federal court based on diversity jurisdiction and moved to compel arbitration. After oral argument on March 9, 2023, the court granted the motion as to Edrington USA, stayed those claims, and granted Shansby an additional six months to serve the remaining defendants.

DISPOSITION

other

CASES CITED

- Lim v. TForce Logistics, LLC, 8 F.4th 992, 999-1000 (9th Cir. 2021)
- Henry Schein, Inc. v. Archer & White Sales, Inc., 139 S. Ct. 524, 530 (2019)
- Brennan v. Opus Bank, 796 F.3d 1125, 1130-1131 (9th Cir. 2015)
- Lorenzo Ford v. Hyundai Motor Am., No. 8:20-cv-00890-FLA (ADSx), 2021 U.S. Dist. LEXIS 249881, at *21-22, 26-27 (C.D. Cal. Oct. 5, 2021)
- Teleport Mobility, Inc. v. Sywula, No. 21-cv-00874-SI, 2021 U.S. Dist. LEXIS 105678, at *10 (N.D. Cal. June 4, 2021)
- MacClelland v. Cellco P'ship, No. 21-CV-08592-EMC, 2022 WL 2390997, at *3 (N.D. Cal. July 1, 2022)
- Genoptix, Inc. v. Dabbas, No. 3:17-CV-1468-CAB-AGS, 2017 WL 4541755, at *1 (S.D. Cal. Oct. 11, 2017)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7 J. GARY SHANSBY, Case No. 22-cv-06907-JSC 8 Plaintiff, ORDER RE: DEFENDANT'S MOTION 9 v. TO COMPEL ARBITRATION 10 EDRINGTON, USA, INC., et al., Re: Dkt. No. 22 Defendants. 11 12 13 J. Gary Shansby, trustee of the Shansby Community Property Trust (Shansby), sues 14 Edrington USA and two other related unserved entities arising out of a tequila distribution venture.

15 Pending before the Court is Edrington USA's motion to compel arbitration. (Dkt. No. 22.)1 After 16 carefully considering the parties' submissions, and having had the benefit of oral argument on 17 March 9, 2023, the Court GRANTS the motion to compel. Shansby and Edrington USA are 18 parties to an agreement with an arbitration provision and a delegation clause.

As there is a good 19 faith argument Shansby's claims relate to or are connected with the agreement, the Court must 20 compel arbitration pursuant to the delegation clause. 21 COMPLAINT ALLEGATIONS 22 Shansby successfully founded the tequila brand Tequila Partida.

In 2016, Shansby's 23 wholly-owned company Tequila Partida, LLC entered into a National Distribution and 24 Collaboration Agreement with Edrington USA and The Edrington Group Ltd, "pursuant to which 25 Edrington assumed exclusive control of all sales, marketing, United States management, and distribution functions.” (Dkt. No. 1 at 10 ¶ 12.) At the beginning of 2017, Tequila Partida and Edrington entered into a “First Restated National Distribution and Collaboration Agreement.” (Id.

¶ 14.) The following year they entered into another amended “National Distribution and Collaboration Agreement.” (Id. at 10-11 ¶ 15.) Shansby, as CEO of Tequila Partida, signed all three Distribution Agreements. (Id. at 31, 57, 84.) After the parties entered into the Distribution Agreements, Tequila Partida experienced declines in every market, including California, the largest United States tequila market.

(Id. at 11 ¶ 17.) Edrington was responsible for the brand’s decline. (Id. ¶ 18.) Shansby then met with Edrington executives in Scotland. The executives “acknowledged the failure of Edrington to discharge its responsibilities, and they committed, on behalf of all three ownership-related entities, to invest the necessary resources in the Tequila Partida brand to ensure its growth and success.” (Id. ¶ 19.)

But Edrington failed to improve its performance and so Shansby’s ownership interest in Tequila Partida was substantially impaired. (Id. at 11-12 ¶¶ 20-21.) In 2021, Shansby was forced to sell Tequila Partida to a third party. (Id.) Prior to the sale, Edrington had a contractual right to increase its membership interests in Tequila Partida, along with a right to acquire Shansby’s interest.

(Id. at 12 ¶ 24.) Thus, at the time of the sale to the third party, Shansby and Edrington owned membership interests in Tequila Partida which were sold to the third party pursuant to a Membership Interest Purchase Agreement (“Purchase Agreement”) dated December 31, 2021. (Dkt. No. 34-2.) The Complaint makes state law claims for breach of the Distribution Agreements (First Cause of Action), Breach of the Implied Covenant of Good Faith and Fair Dealing arising from the Agreements (Second Cause of Action), Misrepresentation (Third Cause of Action), Restitution (Fourth Cause of Action), and Declaratory Relief (Fifth Cause of Action).

The contract claims allege that because of Edrington’s brand mismanagement, Shansby’s membership interest was impaired and he was required to accept a lower sale price. The Restitution and Declaratory Relief claims allege that because Edrington breached the Distribution Agreements, Edrington is not entitled to receive any membership interest in Tequila Partida and thus should disgorge any December 2021 Purchase Agreement.

PROCEDURAL HISTORY

Shansby sued Edrington in state court. Edrington removed to federal court on the basis of diversity jurisdiction. It moves to compel arbitration on the grounds that (1) the Purchase Agreement to which Shansby is a signatory requires arbitration of all disputes, and (2) equitable 6 estoppel requires Shansby to arbitrate its claims arising under or related to the Distribution 7 Agreements.

The Court heard oral argument on March 9, 2023. 8 DISCUSSION 9 The Federal Arbitration Act (FAA) governs arbitration agreements “evidencing a 10 transaction involving commerce.” 9 U.S.C. § 2. Such agreements “shall be valid, irrevocable, and 11 enforceable, save upon such grounds as exist at law or in equity for the revocation of any 12 contract.” Id. In resolving a motion to compel arbitration under the FAA, a court’s inquiry is 13 limited to two “gateway” issues: “(1) whether a valid agreement to arbitrate exists and, if it does, 14 (2) whether the agreement encompasses the dispute at issue.

If both conditions are met, the [FAA] 15 requires the court to enforce the arbitration agreement in accordance with its terms.” Lim v. 16 TForce Logistics, LLC, 8 F.4th 992, 999 (9th Cir. 2021). 17 The Purchase Agreement includes a broad arbitration clause: 18 Any dispute, controversy, or claim arising out of or in connection with or relating to this Agreement or any breach or alleged breach hereof, 19 will, upon the request of any party involved, be submitted to, and settled by, arbitration in San Francisco, California, pursuant to the 20 JAMS rules of arbitration; provided, however, that nothing in this paragraph shall prevent a party from commencing legal proceedings 21 for injunctive or other equitable relief in a federal or state court in San Francisco.

22 23 (Dkt. No. 34-2 at 71 § 10.10(b).) As to the first gateway issue, it is undisputed Shansby signed the 24 Purchase Agreement and thus agreed to the arbitration provision. (Id. at 72; see also Dkt. No. 30 25 (Shansby’s opposition not disputing Shansby signed the Purchase Agreement with the arbitration 26 provision).) 27 The second issue is trickier.

The question whether an arbitration agreement covers a 1 provide for it.” Lim, 8 F.4th at 999-1000 (cleaned up); see also Henry Schein, Inc. v. Archer & 2 White Sales, Inc., 139 S. Ct. 524, 530 (2019) (stating the Supreme Court “has consistently held 3 that parties may delegate threshold arbitrability questions to the arbitrator, so long as the parties’ 4 agreement does so by ‘clear and unmistakable’ evidence”).

Edrington argues the Purchase 5 Agreement clearly and unmistakably provides for the arbitrator to decide whether Shansby’s 6 claims are covered by the Purchase Agreement arbitration provision because it incorporates the 7 JAMS rules of arbitration and those rules empower the arbitrator to decide arbitrability. 8 The Purchase Agreement clearly and unmistakably delegates arbitrability to the arbitrator 9 under binding Ninth Circuit law.

In Brennan v. Opus Bank, 796 F.3d 1125 (9th Cir. 2015), the 10 Ninth Circuit held “incorporation of the AAA rules constitutes clear and unmistakable evidence 11 that contracting parties agreed to arbitrate arbitrability” because one of the AAA rules gives the 12 arbitrator the power to rule on arbitrability. Id. at 1130. JAMS rules, like AAA rules, give the 13 arbitrator the power to decide arbitrability.

See Lorenzo Ford v. Hyundai Motor Am., No. 8:20-cv- 14 00890-FLA (ADSx), 2021 U.S. Dist. LEXIS 249881, at *21-22, 26-27 (C.D. Cal. Oct. 5, 2021) 15 (finding that nonsignatory plaintiff's claims "relie[d] on contract terms" containing an arbitration 16 provision and holding that incorporation of the JAMS rules in that provision "provides clear and 17 unmistakable evidence of... intent to delegate questions of arbitrability to an arbitrator"); 18 Teleport Mobility, Inc. v. Sywula, No. 21-cv-00874-SI, 2021 U.S. Dist.

LEXIS 105678, at *10 19 (N.D. Cal. June 4, 2021) (incorporation of JAMS commercial rules clearly and unmistakably 20 delegated arbitrability to the arbitrator). Thus, under Brennan, the Purchase Agreement arbitration 21 provision clearly and unmistakably delegates arbitrability to the arbitrator. Shansby does not 22 argue otherwise.2 23 2 Brennan left unresolved whether its ruling applies when at least one of the arbitration agreement 24 parties is unsophisticated.

796 F.3d at 1131; see also MacClelland v. Cellco P'ship, No. 21-CV- 25 08592-EMC, 2022 WL 2390997, at *3 (N.D. Cal. July 1, 2022) ("Where at least one party is unsophisticated, courts in this district and elsewhere have routinely found that the incorporation of 26 the AAA rules is insufficient to establish a clear and unmistakable agreement to arbitrate arbitrability").

But there is no dispute Shansby is sophisticated. He is a successful businessman 27 who founded a prestigious tequila brand and, more importantly, was represented by counsel in 1 But Shansby contends there is no good faith argument the arbitration provision covers his 2 claims and so the Court should not go through the meaningless exercise of compelling arbitration 3 when the arbitrator is just going to conclude the claims are not arbitrable.

Not so. The arbitration 4 provision broadly covers any "claim arising out of or in connection with or relating to this 5 Agreement." (Dkt. No. 34-2 at 71 § 10.10(b).) Each claim on its face arguably relates to or is 6 connected with the Purchase Agreement.

The breach of contract and breach of implied covenant 7 claims, while premised on breach of the Distribution Agreements, allege that as a result of 8 Defendants' breaches Shansby "was obliged to accept a purchase price when the membership 9 interests were sold that was much lower than it should have been." (Dkt. No. 1 at 13 ¶¶ 29, 32.) 10 These claims arguably refer directly to, or are connected with or related to the Purchase 11 Agreement which documented the sale of the lower price.

Similarly, the Restitution and 12 Declaratory Relief causes of action expressly seek to disgorge from Defendants amounts received 13 under the Purchase Agreement and to assign to Shansby "the right to receive any amounts in the 14 future, under the December 31, 2021 Membership Interest Purchase Agreement." (Id. at 14 ¶¶ 42, 15 44.) Indeed, the Complaint's demand seeks “restitution of all amounts received, or to be received 16 in the future by Defendants under the Membership Interest Purchase Agreement.” (Id. at 15 17 (emphasis added).)

So, in light of the Complaint’s allegations, there is a good faith argument 18 Shansby’s claims relate to or are connected with the Purchase Agreement. 19 Shansby’s insistence he cannot be compelled to arbitration under this provision because 20 the Purchase Agreement is “not the basis for any cause of action” and was not attached to the 21 Complaint, (Dkt.

No. 30 at 4), ignores the arbitration provision’s language. It applies to any claim 22 that is related to or connected with the Purchase Agreement, not just claims that are based upon or 23 allege a breach of the Purchase Agreement.

The lone case Shansby cites to support his opposition 24 to compelling arbitration under the Purchase Agreement, Genoptix, Inc. v. Dabbas, No. 3:17-CV- 25 1468-CAB-AGS, 2017 WL 4541755, at *1 (S.D. Cal. Oct. 11, 2017), is inapposite. It did not 26 involve a complaint in which the plaintiff expressly referenced the agreement containing the 27 arbitration provision and sought to recover monies paid pursuant to that agreement.

Thus, the 1 CONCLUSION 2 As the Purchase Agreement delegates arbitrability to the arbitrator, and as there is a good 3 || faith argument Shansby’s claims are covered by the arbitration provision, the claims against 4 || Edrington USA are compelled to arbitration pursuant to the Purchase Agreement arbitration 5 || provision’s delegation clause.

The claims against Edrington USA in this Court are therefore 6 || STAYED pending resolution of the arbitration. 7 As stated on the record at oral argument, Shansby is granted an additional six months from 8 the date of this Order to serve the remaining defendants.

The Court sets an initial case 9 || management conference for Shansby and the remaining defendants for November 2, 2023 at 1:30 10 || p.m. via Zoom video, with a joint case management conference statement due one week in 11 advance. 12 This Order disposes of Docket No. 22. 13 IT IS SO ORDERED. |! Dated: March 9, 2023. JACQUELINE SCOTT CORLE = 16 United States District Judge 18 19 20 21 22 23 24 25 26 27 28