

FOURTH COURT OF APPEALS OF TEXAS, SAN ANTONIO

Endura Advisory Group, Ltd. v. Altomare

No. 04-14-00889-CV · No. No. 04-14-00889-CV · Decided April 8, 2015

SUMMARY

The Fourth Court of Appeals of Texas affirmed the denial of Endura Advisory Group, Ltd.'s motion to compel arbitration. The court held that Dominic Altomare's claims against Josh Reneau, arising from a separate agreement concerning commission sharing, were not within the scope of the arbitration clause in Altomare's Separation Agreement with Endura. The claims were independent of the Separation Agreement and could be maintained without reference to it.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas, San Antonio
WRITING FOR THE COURT	Sandee Bryan Marion, Chief Justice; Karen Angelini, Justice; Luz Elena D. Chapa, Justice
JURISDICTION	Texas
DECIDED	April 8, 2015
DOCKET	No. 04-14-00889-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Accelerated interlocutory appeal from an order denying Endura Advisory Group, Ltd.'s motion to compel arbitration and a subsequent order denying reconsideration.
STANDARD OF REVIEW	The existence of a valid arbitration agreement and whether the claims fall within its scope are examined under the applicable arbitration framework; interpretation of the arbitration agreement and whether a claim falls within its scope are reviewed de novo.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; precedential effect is not stated in the opinion.
PARTIES	Endura Advisory Group, Ltd. v. Dominic Altomare

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Altomare's breach-of-contract claims against Reneau fell within the scope of the arbitration clause in the Separation Agreement between Altomare and Endura.
2. Whether the trial court erred by denying Endura's motion to compel arbitration.

HOLDINGS

1. Altomare's claims against Reneau were not within the scope of the arbitration clause because they arose from a separate agreement between Altomare and Reneau, were independent of the Separation Agreement, and could be maintained without reference to it.
2. The trial court did not err in denying Endura's motion to compel arbitration.

KEY QUOTATIONS

"We agree with Altomare that Endura reads the language of the Separation Agreement too broadly." (5)

"Because Altomare's claims against Reneau stand alone and are completely independent of the Separation Agreement, his claims are not within the scope of the arbitration clause in the Separation Agreement, and the trial court did not err in denying Endura's motion to compel arbitration." (6)

FACTUAL BACKGROUND

Endura and Altomare entered into a Separation Agreement in August 2013 that ended Altomare's association with Endura, terminated his limited partnership interest, and provided monetary benefits. While Altomare was associated with Endura, Reneau worked as a real estate agent for Endura under an Associate Compensation Agreement. Altomare later sued Reneau for breach of an alleged separate agreement to split commissions, and Endura sought to compel arbitration based on the arbitration clause in the Separation Agreement.

PROCEDURAL HISTORY

Altomare sued Reneau for breach of contract based on an alleged agreement to split commissions. Endura intervened and moved to compel arbitration under an arbitration clause in a Separation Agreement between Endura and Altomare. The trial court denied the motion to compel and later denied Endura's motion for reconsideration; Endura appealed.

DISPOSITION

affirmed

CASES CITED

- In re Kellogg Brown & Root, Inc., 166 S.W.3d 732, 737 (Tex. 2005)

- McReynolds v. Elston, 222 S.W.3d 731, 740 (Tex. App.—Houston [14th Dist.] 2007, no pet.)
- Dell, Inc. v. Muniz, 163 S.W.3d 177, 180 (Tex. App.—San Antonio 2005, orig. proceeding)
- Epps v. Fowler, 351 S.W.3d 862, 865 (Tex. 2011)
- Glassell Producing Co. v. Jared Res., Ltd., 422 S.W.3d 68, 76-78 (Tex. App.—Texarkana 2013, no pet.)
- In re Rubiola, 334 S.W.3d 220, 225 (Tex. 2011)
- Ellis v. Schlimmer, 337 S.W.3d 860, 862 (Tex. 2011)
- Pennzoil Co. v. Arnold Oil Co., 30 S.W.3d 494, 498 (Tex. App.—San Antonio 2000, no pet.)
- Italian Cowboy Partners, Ltd. v. Prudential Ins. Co. of America, 341 S.W.3d 323, 333-34 (Tex. 2011)