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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

HOWARD APPEL, *et al.*,  
  
Plaintiffs,  
  
v.  
  
CONCIERGE AUCTIONS, LLC, *et al.*,  
  
Defendants.

Case No. 17-cv-2263-BAS-MDD

**ORDER GRANTING DEFENDANT’S  
MOTION TO CONFIRM  
ARBITRATION AWARD  
(ECF No. 74)**

On August 4, 2023, following a five-year arbitration and an eighteen-day evidentiary hearing, a panel of three arbitrators from the American Arbitration Association (the “Panel”) issued a final arbitration award in this matter. Pending before the Court is Defendant Concierge Auctions, LLC’s (“Concierge”) motion to confirm the arbitration award. (ECF No. 74.) The Court previously denied Plaintiffs Howard Appel and David Cohen’s and Defendant’s motions to vacate in part the arbitration award. (ECF No. 73.) For the reasons herein, the Court **GRANTS** Defendant’s motion to confirm the arbitration award. (ECF No. 74.)

**I. Background**

A fulsome account of the facts of this case can be found in the Court’s May 20, 2024, order denying the parties’ motions to vacate in part the arbitration award. (ECF No. 73.)

1 This dispute arises out of luxury property auctions conducted by Defendant where  
2 Plaintiffs participated or were the winning bidder. Plaintiffs brought suit accusing  
3 Defendant of placing fictitious bids in order to drive up the auction prices. Following a  
4 motion by Concierge, the Court compelled the parties to arbitration, stayed the  
5 proceedings, and administratively closed the case. (ECF No. 30.)

6 The parties proceeded to engage in arbitration proceedings lasting five years that  
7 culminated in an eighteen-day evidentiary hearing before the Panel. On August 4, 2023,  
8 the Panel issued a fifty-page final award. While the Panel concluded Concierge submitted  
9 fake bids, the Panel found for Concierge on all of Plaintiffs' fraud claims because Plaintiffs  
10 failed to demonstrate they were damaged by the fictitious bids. The Panel also found in  
11 favor of Defendant on Plaintiffs' breach of fiduciary duty claim. The Panel, however,  
12 found against Defendant on all of its counterclaims and found in favor of Plaintiffs on their  
13 conversion claim. The Panel awarded Plaintiffs \$18,427 in damages. Finally, the Panel  
14 found neither party was the prevailing party and that the parties were to bear their own  
15 costs. (ECF No. 633-3 at 602.)

16 Plaintiffs and Defendant filed motions before this Court to vacate in part the  
17 arbitration award. The Court denied these motions and ordered Defendant to file a motion  
18 to confirm the arbitration award pursuant to the Federal Arbitration Act ("FAA"). (ECF  
19 No. 73.) That motion is now before the Court.

## 20 **II. Legal Standard**

21 Section 9 of the FAA provides that "within one year after the award is made any  
22 party to the arbitration may apply to the court so specified for an order confirming the  
23 award." 9 U.S.C. § 9. A district court, upon timely petition, "must" confirm an arbitration  
24 award "unless the award is vacated, modified, or corrected as prescribed in sections  
25 10 and 11." *Id.* A court's ultimate review of the petition is "both limited and highly  
26 deferential." *Coutee v. Barington Cap. Grp., L.P.*, 336 F.3d 1128, 1132 (9th Cir.  
27 2003) (citing *Sheet Metal Workers' Int'l Ass'n v. Madison Indus., Inc.*, 84 F.3d 1186, 1190  
28 (9th Cir. 1996)). Confirmation of an arbitration award typically "is a summary proceeding

1 that merely makes what is already a final arbitration award a judgment of the  
2 court.” *Romero v. Citibank USA, Nat’l Ass’n*, 551 F. Supp. 2d 1010, 1014 (E.D. Cal.  
3 2008) (quoting *Florasynt, Inc. v. Pickholz*, 750 F.2d 171, 175–76 (2d Cir. 1984)).

4 Pursuant to this limited review, district courts generally assess the timeliness of the  
5 motion to confirm the award, whether the parties present grounds to vacate the arbitration  
6 award, and whether the underlying contract specifies a particular court to confirm the  
7 award. *See, e.g., Gellman v. Hunsinger*, No. 18-CV-2641-BAS-AGS, 2021 WL 4295289,  
8 at \*7 (S.D. Cal. Sept. 20, 2021), *aff’d sub nom. Gellman v. Hunsinger*, No. 22-55728, 2023  
9 WL 8166778 (9th Cir. Nov. 24, 2023); *Shaw v. Norm Reeves Honda Superstore*, No. SA-  
10 CV-18786-JVS-DFMx, 2022 WL 2903161, at \*4 (C.D. Cal. June 8, 2022).

### 11 **III. Analysis**

12 First, the Court previously found the contract underlying the arbitration to be  
13 enforceable and mandating the parties “submit all controversies, disputes, claims, and  
14 matters of difference” to arbitration. (ECF No. 30.) While the Court lacked discretion to  
15 compel arbitration outside this District, it nevertheless was empowered to compel  
16 arbitration in the Southern District of California. (*Id.*) Second, the Court previously denied  
17 the parties’ motions to vacate in part the arbitration award. (ECF No. 73.) The parties  
18 have not submitted additional arguments for vacatur. As follows, the Court need not assess  
19 the propriety of the Panel’s award again. Third, Defendant timely made the instant motion  
20 to confirm within one year of the Panel’s final award pursuant to the requirements of the  
21 FAA. *See* 9 U.S.C. § 9. Fourth, Defendant has met the service requirements of the FAA  
22 by submitting this motion through the electronic court filing system.

23 Plaintiffs submit an opposition to Defendant’s motion to confirm the award;  
24 however, they do not object to the Court confirming the Panel’s award or present new  
25 arguments for vacatur. (ECF No. 75.) Rather, they present two objections to the structure  
26 and content of Defendant’s motion. First, Plaintiffs object to Defendant’s incorporation by  
27 reference of their prior arguments for partial vacatur that the Court rejected. Plaintiffs  
28 contend this is an implicit motion for reconsideration. The Court does not agree with that

1 interpretation. Defendant appears to be noting its prior objections in the event it pursues a  
2 subsequent appeal and does not request the Court reconsider its prior order. Second,  
3 Plaintiffs object to Defendant dismissing its action in the U.S. District Court for the  
4 Southern District of New York without prejudice. As discussed in more detail in the  
5 Court's prior order, Defendant had filed a related motion in that court seeking to confirm  
6 in part and vacate in part the Panel's award. (ECF No. 73.) The Court does not find it  
7 necessary to order Defendant to request the district court in New York to reopen that case  
8 merely to dismiss it with prejudice.


9 Accordingly, the Court confirms the arbitration award.

10 **IV. Conclusion**

11 Based on the foregoing, the Court **GRANTS** Defendant's motion to confirm the  
12 arbitration award and **CONFIRMS** the arbitration award. (ECF No. 74.)

13 **IT IS SO ORDERED.**

14  
15 **DATED: July 1, 2024**

  
**Hon. Cynthia Bashant**  
**United States District Judge**