

DAILY BUSINESS REVIEW

VERDICTS & SETTLEMENTS

Attorneys get arbitration enforced in Latin American airplane deal

Case: AeroCentro v. Aeropostal Alas de Centro America et al

Case no: 1:09-mc-23392

Description: Enforce arbitration award

Filing date: Nov. 5, 2009

Final judgment: Jan. 7, 2010

Award: \$2.93 million

Judge: U.S. District Judge Ursula Ungaro

Plaintiff attorneys: Gary E. Davidson, Gerardo Rodriguez-Albizu and Chad Purdie, Diaz Reus & Targ, Miami

Defense attorney: None

Details: When Venezuelan air carrier Aeropostal set its sights on expanding its Central American operations in 2005, executives reached out to Panamanian aviation company AeroCentro to supply two planes.

Aeropostal Alas de Venezuela created a subsidiary, Aeropostal Alas de Centro America, and sought permits to operate in Costa Rica. In 2006, the subsidiary struck a deal with AeroCentro, securing 43-month leases on two McDonnell Douglas DC-9 passenger jets.

The planes were delivered to an airport in Guatemala. But when the Costa Rican government withheld required permits, Aeropostal dissolved the company, and AeroCentro was left with two unused planes parked in an empty hangar.

The leases stated any conflicts would be resolved by an independent party in Miami-Dade County, so Aeropostal filed a complaint with the American Arbitration Association's International Centre for Dispute Resolution in October 2007.

Aeropostal questioned whether the arbitrator, Akerman Senterfitt partner Burton A. Landy of Miami, had jurisdiction over an international matter and refused to take part in the arbitration proceedings.

Coral Gables attorney Ricardo Pines rep-

resented Aeropostal at a preliminary hearing. He told the arbitrator the company had been taken over by the Venezuelan government and withdrew as counsel. Pines did not respond to a call for comment by deadline.

The arbitrator noted efforts to contact the Venezuelan airline company's attorneys were futile.

Plaintiff case: Although Aeropostal's subsidiary was the only signatory on the leases, it was signing as an instrument of its parent, plaintiffs argued. The Panamanian jet supplier claimed Aeropostal's attorneys and executives worked out the deals.

Aeropostal remained responsible for the unused planes, which cost AeroCentro millions of dollars during the lease period. Even though the planes weren't used, AeroCentro was forced to change the emergency lights on one aircraft and smoke detectors on the other. It also was prevented from renting out hangar space to another company that had reserved it.

AeroCentro claimed the Venezuelan company was responsible for all the losses during the lease period.

Defense case: Aeropostal was served but did not respond to a lawsuit filed in U.S. District Court in Miami to enforce the arbitrator's award.

Outcome: After several hearings with only AeroCentro representatives present, the arbitrator awarded the Panamanian company \$2.93 million plus attorney fees and interest. The case was brought before U.S. District Judge Ursula Ungaro. Plaintiffs argued U.S. courts had jurisdiction over the matter because Panama, Costa Rica and Venezuela all signed the New York Convention, an international treaty recognizing foreign arbitral awards. Judge



A.M. HOLT

Attorneys Chad Purdie, Gerardo Rodriguez-Albizu and Gary E. Davidson, seated, argued a nearly \$3 million arbitration award was binding because the three countries involved agreed to U.S. jurisdiction.

Ungaro entered a default judgment Jan. 4 and confirmed the arbitrator's award in a final judgment Jan. 7.

Quote: Aeropostal "agreed to assume the leases, but when the final aircraft were prepared and ready to go, they never showed up to pick up the aircraft," Davidson said.

Post-award: He said AeroCentro has not yet asked his firm to actively pursue the monetary award and declined to comment about possible seizures or collection methods. He said, "Our client is weighing options of how to pursue this further, if at all."