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Disagreement Recognized by [Coty Inc. v. Anchor Const. Inc.](#), N.Y.Sup., January 8, 2003

289 A.D.2d 105

Supreme Court, Appellate Division,
First Department, New York.

The VELEZ ORGANIZATION, Petitioner–Appellant,

v.

J.C. CONTRACTING CORP.,
Respondent–Respondent.

Dec. 18, 2001.

Appeal was taken from order of the Supreme Court, New York County, [Emily Goodman](#), J., which denied petition to vacate arbitration award. The Supreme Court, Appellate Division, held that vacatur was warranted given an arbitrator's commercial bribery conviction.

Reversed and remanded.

West Headnotes (2)

[1] Alternative Dispute Resolution

[Prejudice or Partiality and Interest in Subject Matter](#)

Alternative Dispute Resolution

[Recommittal to Arbitrators by Court](#)

Vacatur of arbitrators' award and remand for a new arbitration before a new panel of arbitrators was warranted, where one member of three-person panel of arbitrators was convicted of commercial bribery during course of subject arbitration, and conviction was not disclosed to parties; nature of conviction established corruption on arbitrator's part and placed serious doubt on his ability to act impartially and fairly, while his conduct tainted integrity of arbitration process and created an appearance of impropriety.

[1 Cases that cite this headnote](#)

[2] Alternative Dispute Resolution

[Mode and Course of Proceedings in General](#)

Precisely because arbitration awards are subject to judicial deference, it is imperative that the integrity of the process, as opposed to the correctness of the individual decision, be zealously safeguarded.

[Cases that cite this headnote](#)

Attorneys and Law Firms

****165** [Michael E. Geltner](#), for Petitioner-Appellant.

Joseph P. Dineen, for Respondent-Respondent.

SULLIVAN, P.J., [ANDRIAS](#), [WALLACH](#), [SAXE](#) and [MARLOW](#), JJ.

Opinion

***105** Judgment, Supreme Court, New York County (Emily Goodman, J.), entered October 31, 2000, which, *inter alia*, denied the petition to vacate the arbitration award against petitioner and confirmed said award in all respects, unanimously reversed, on the law, with costs, the judgment vacated, the petition granted and the matter ***106** remanded for a new arbitration before a new panel of arbitrators.

[1] The commercial bribery conviction of one of the members of the three-person panel of arbitrators, which occurred during the course of the subject arbitration and which was not disclosed to the parties, in and of itself warrants the vacatur of the arbitrators' award and a remand for a new arbitration before a new panel of arbitrators (*see, Matter of Kern v. 303 East 57th Street Corp.*, 204 A.D.2d 152, 153, 611 N.Y.S.2d 547, *lv. denied* 84 N.Y.2d 810, 622 N.Y.S.2d 913, 647 N.E.2d 119).

[2] The nature of the conviction established corruption on the part of the arbitrator in question and placed serious doubt on his ability to act impartially and fairly. Moreover, such conduct tainted the integrity of the arbitration process and created an appearance of impropriety. “Precisely because arbitration awards are subject to such judicial deference, it is imperative that the

integrity of the process, as opposed to the correctness of the individual decision, be zealously safeguarded” (*Matter of Goldfinger v. Lisker*, 68 N.Y.2d 225, 230, 508 N.Y.S.2d 159, 500 N.E.2d 857).

We have not considered petitioner's other point regarding respondent's “corporate existence”, which was improperly

raised for the first time in its reply papers in Supreme Court.

All Citations

289 A.D.2d 105, 734 N.Y.S.2d 164, 2001 N.Y. Slip Op. 10190

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