



AMERICAN ARBITRATION ASSOCIATION®

**FINAL AWARD**

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In the Matter of the Arbitration between:

Strategic Asset Group, LLC (“CLAIMANT”)

-and-

Olga Shabanets (“RESPONDENT”)

CASE NUMBER: 01-19-0000-0328

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I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the arbitration agreement entered into by the above-named parties dated February 22, 2017 and the court order dated January 2, 2019, and having been duly sworn, and having fully reviewed and considered the written documents submitted to me by Claimant, through its counsel, Mr. Bob Benjy, Esq., and Respondent having not made an appearance and having failed to submit documents after due notice, hereby find as follows:

**BACKGROUND**

1. On February 22, 2017, the parties entered into a written Loan Agreement, pursuant to which Sheran Commerce, S.A. (“Sheran”) loaned \$120,000.00 to Respondent for commercial, business and investment purposes. Sheran agreed and offered the loan without any collateral and subject to a nominal rate of interest of only 1.5% per annum. The agreed upon term of the loan was 12 months. (Igor Timofeev Decl. Exh. 1.)
2. The Loan Agreement, which was executed by Respondent and also by Igor Timofeev, General Director of Sheran, includes specific Russian Federation passport information for Respondent and Respondent also provided Sheran with photocopies of her passport at or about the time the Loan Agreement was signed. Respondent’s signature on the Loan Agreement appears to be identical to the signature in her passport and the passport number in the Loan Agreement (No. 4508 129272) matches her passport number as set forth in the passport. (*Compare id.* Exh. 1 with Exh. 2.)
3. As required by the Loan Agreement, the loan proceeds were wired by Sheran to

Respondent's deposit account at Compass Bank in Birmingham, Alabama (Account Number 6746583352), and received in that account on or about February 28, 2017. The wire was done specifically in conformance with the bank name, swift code, and account number provided in the Loan Agreement. (*Compare id.* Exh. 1 with Exh. 3; see *id.* ¶ 6.) Respondent never complained about not having received the wire. (*Id.* ¶ 7.)

4. After receiving the loan proceeds, Respondent never made any principal or interest payments in connection with the loan. (*Id.* ¶ 8; Vadim Nestscheret Decl. ¶¶ 4-6.)
5. On April 6, 2018, Sheran sold and assigned the loan and Loan Agreement to Claimant pursuant to that certain written Assignment of Loan and Loan Documents of even date therewith. (*See* Timofeev Decl. Exh. 4; Vadim Nestscheret Decl. ¶¶ 2-3.) Despite demand having been made, Claimant has never collected any sum thereon, and Respondent has never denied that the loan is a valid obligation. (*See* Timofeev Decl. ¶ 8; Nestscheret Decl. ¶ 4; Bobby Benjy Decl. ¶ 3.)

## ANALYSIS

6. "To prevail on a cause of action for breach of contract, the plaintiff must prove (1) the contract, (2) the plaintiff's performance of the contract or excuse for non-performance, (3) the defendant's breach, and (4) the resulting damage to the plaintiff." (Richman v. Hartley (2014) 224 Cal.App.4th 1182, 1186.) Based on the above findings, there is no doubt in my mind that Respondent has breached her obligation to repay the loan evidenced by the Loan Agreement.
7. The damages arising from the breach include the following components: (a) unpaid principal in the amount of \$120,000 and (b) accrued, unpaid interest at the rate of 1.5% per annum. (*See* Timofeev Decl. Exh. 1.)

### Pre-Judgment Interest

8. Section 4.2 of the Loan Agreement provides, "[i]nterest is charged from the moment of money entering on the account of Borrower till the moment of money returning, which form the sum of the debt on the Lender's settlement account." (*Id.*) The loan proceeds were delivered to Respondent on February 28, 2017. As of April 30, 2019, a period of 791 days has passed since the date of delivery. The annual interest on \$120,000 at 1.5% per annum is equal to \$1,800, meaning that the daily rate is equal to \$4.93. When one multiplies 791 days x \$4.93, the accrued interest as of April 30, 2019, works out to \$3,900.82.

### Costs and Expenses

9. From the date the loan and Loan Agreement was acquired from Sheran until April 30, 2019, Claimant has incurred more than \$5,371 in litigation-related and AAA costs and expenses, which sum is comprised of: (a) Superior Court of California filing fee: \$435;

(b) service of process fees: \$425; (c) CourtCall appearance expenses: \$86; (d) AAA filing fee: \$1,925; (e) AAA arbitrator's fee (Claimant's half): \$1,250; and (e) AAA arbitrator's fee (Respondent's half, paid for by Claimant): \$1,250. (See Nestscheret Decl. ¶ 8 & Exh. A.)

#### AWARD

For the foregoing reasons, I AWARD as follows:

1. Respondent shall pay Claimant \$123,900.82 forthwith.
2. The administrative fees of the AAA totaling \$1,925 shall be borne by Respondent. Accordingly, Respondent shall pay to Claimant \$1,925.
3. The compensation of the arbitrator totaling \$2,000 shall be borne by Respondent. Accordingly, Respondent shall pay to Claimant \$2,000.
4. The Superior Court filing fees, service of process fees, and CourtCall appearance fees incurred by Claimant shall be borne by Respondent. Accordingly, Respondent shall pay to Claimant \$946.
5. Interest on the sum total of **\$128,771.82** will accrue at the rate of 10% per annum commencing thirty days from the date of this Award, until paid in full.

This Final Award is in full settlement of all claims submitted to this Arbitration. All claims not expressly granted herein are hereby DENIED.

Dated: June 4, 2019



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Hiro N. Aragaki, Arbitrator