

SHORT FORM ORDER

ORIGINAL

SUPREME COURT - STATE OF NEW YORK

Present: ANTONIO I. BRANDVEEN
J. S. C.

SOUTH SHORE ALARMS, INC.,

TRIAL / IAS PART 43
NASSAU COUNTY

Petitioner,

Index No. 600228/2020

- against -

Motion Sequence No. 001

SYED A. HUSSAIN,

Respondent.

The following papers having been read on this motion:

Notice of Petition, Affidavits, & Exhibits	<u>1, 2</u>
Answering Affidavits	_____
Replying Affidavits	_____
Briefs: Plaintiff's / Petitioner's	_____
Defendant's / Respondent's	_____

UPON DUE DELIBERATION AND CONSIDERATION BY THE COURT of the foregoing papers, including efiled documents/exhibits numbered four through and including seven, this motion is decided as follows:

The petitioner seeks an order pursuant to CPLR 7510 and 7514, confirming the Arbitration Award, dated October 29, 2019, in the sum of \$2,842.72, with costs, disbursements, interests from October 29, 2019, and granting additional counsel fees in the sum of \$750.00. The respondent failed to provide any opposition to this petition.

Commercial Arbitration Rule 38(c) states that “[i]f a party fails to timely comply with the arbitration award, a party commencing a proceeding in a court of law to confirm or enforce the

award shall be permitted to additional counsel fees for post arbitration proceedings as the court may deem appropriate.” In addition to the amount set forth in the arbitration award, the petitioner claims it is entitled to additional counsel fees pursuant to Rule 38 of the Commercial Arbitration Rules for proceeding to confirm and enforce the award. The petitioner’s attorney sets forth in an affirmation dated December 16, 2019, the details for additional counsel fees of \$750.00, including the legal services in litigating this matter: prepared a letter to the respondent regarding the award; the notice of petition and petition; and an affirmation in support of the attorneys’ fees. The petitioner attorney’s hourly rate for rendering legal services is \$300.00 per hour, however, this action was billed on a contingency basis of one-third of all money collected, that is, approximately four hours were expended on this matter after receiving the arbitration award. The petitioner’s attorney indicates additional legal services will be rendered to enforce the judgment confirming the arbitration award, which may include: preparing and serving the notice of entry of the judgment; preparing a letter to the respondent regarding the judgment; preparing an execution to enforce the judgment; and preparing and serving subpoenas to enforce the judgment. The petitioner’s attorney requests counsel fees in the sum of \$750.00 as reasonable and customary for legal services rendered to confirm and collect an arbitration award.

The petitioner commenced an arbitration proceeding pursuant to a written agreement to arbitrate, and on October 29, 2019, Allan L. Pullin, an arbitrator, after having taken the oath prescribed by law and after the parties duly submitted their proofs or had the opportunity to do so, and having fully considered all of the evidence and arguments submitted and having come to a decision, duly made the award in writing, whereby determined and awarded that there is \$2,842.72 due to the petitioner from the respondent. On October 30, 2019, in accordance with CPLR 7507, the arbitrator delivered a copy of the award to each party in the manner provided in the parties’ agreement to arbitrate. The arbitrator awarded the petitioner attorney fees compensating only for the legal services rendered in obtaining the arbitration award and not for the legal services necessary to confirm and enforce the arbitration award.

The Court determines the petitioner satisfied its burden for confirming the Arbitration Award dated October 29, 2019, in the sum of \$2,842.72, with costs, disbursements, the interest from October 29, 2019, and granting additional counsel fees in the sum of \$750.00 (CPLR 7510

and 7514).

ORDERED, ADJUDGED and DECREED that the petition is GRANTED confirming the arbitration award in the amount of \$2,842.72, with costs, disbursements, the interest from October 29, 2019, and \$750.00 additional counsel fees.

This decision will constitute the decision and order of the Court.

SUBMIT JUDGMENT.

Dated: **February 10, 2020**

ENTER:



J. S. C.

FINAL DISPOSITION

ENTERED
FEB 19 2020
NASSAU COUNTY
COUNTY CLERK'S OFFICE