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SHORT FORM ORDER

**SUPREME COURT - STATE OF NEW YORK
COUNTY OF NASSAU - PART 17**

**Present: HON. WILLIAM R. LaMARCA
Justice**

**In the Matter of the Arbitration between
FIA CARD SERVICES, N.A. f/k/a MBNA
AMERICA BANK, N.A.**

**Motion Sequence #2
Submitted June 25, 2008**

Petitioner,

-against-

INDEX NO: 610/08

JEANETTE M. FREED and ERIC M. KUHN

Respondents.

The following papers were read on this petition:

Notice of Motion.....1

Petitioner, FIA CARD SERVICES, N.A. f/k/a MBNA AMERICA BANK, N.A. (hereinafter referred to as "FIA"), moves for an order severing respondent, ERIC M. KUHN, from the action, pursuant to CPLR §407, and for leave to renew the petition, pursuant to CPLR Article 75, for an order confirming the award of the arbitrator and directing that judgment be entered thereon. Affidavits of Service reflect service by mail of the instant motion upon respondents, JEANETTE M. FREED and ERIC M. KUHN, on May 22, 2008, but no papers are submitted in opposition to the motion, which is determined as follows:

On a prior petition to the Court, petitioner stated that, by way of contract and retention and use of a credit card issued by MBNA AMERICA, respondents became bound by the terms of the MBNA AMERICA Gold Option Account Agreement, which provided for binding arbitration in the event that a dispute arose under the contract and that petitioner demanded arbitration in accordance with the rules of the National Arbitration Forum (NAF). Thereafter, the NAF designated Sherri L. Hughes, Esq., as arbitrator, who, after submission of a formal written complaint as well as the proofs and arguments of the petitioner, and the respondents having failed to respond to the claim, evaluated said evidence and came to a decision in writing on February 22, 2007, which awarded MBNA AMERICA BANK, N.A. the total amount of \$33,618.49 against FREED and KUHN. Counsel for petitioner stated that a copy of the Award was delivered to the parties on February 22, 2007 and that the petition was brought within one (1) year after delivery of the award to petitioner and that the award had not been vacated or modified under CPLR §7511. Said motion was denied because of a procedural deficiency with the attorney verification, with leave to renew, an oversight that has now been corrected.

On the instant motion, counsel for FIA states that, since the prior petition, counsel has learned that respondent ERIC M. KUHN, has filed a Chapter 7 Bankruptcy Petition, and was granted a discharge with respect to the credit card account underlying the arbitration award. However, counsel for FIA states that, upon information and belief, respondent, JEANETTE M. FREED, has not filed for bankruptcy protection and has not been discharged from her obligation on the arbitration award or the underlying debt. Moving counsel urges that ERIC M. KUHN, be severed and discontinued from the instant proceeding and, upon renewal, that the Court grant FIA's petition for confirmation of the

February 21, 2007 Arbitration Award.

After a careful reading of the submission herein, and there being no opposition, the motion and the underlying petition is granted.

All further requested relief not specifically granted is denied.

This constitutes the decision and order of the Court.

Submit judgment for the Court's signature.

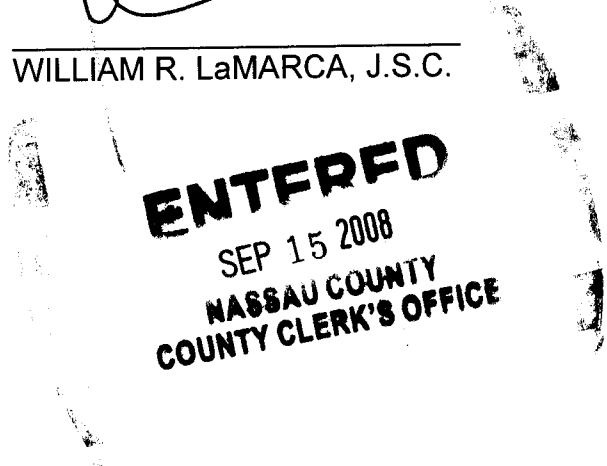
Dated: September 8, 2008



WILLIAM R. LaMARCA, J.S.C.

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ENTERED
SEP 15 2008
NASSAU COUNTY
COUNTY CLERK'S OFFICE