

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

**THOMAS ALSOP and
MARIANNE ALSOP,**

Petitioners,

v.

**Civil Action No. 3:07MC50
(Judge Bailey)**

**JAMES WEESE, individually and
as President of Tygarts Valley
Construction, Inc. and TYGARTS
VALLEY CONSTRUCTION, INC.,**

Respondents.

ORDER CONFIRMING ARBITRATION AWARD

Pending before this Court is the petitioners' Application for Judgment Order Confirming Arbitration Award (Doc.1), which was filed on November 30, 2007, and served upon the respondents by mailing the same to their counsel on the same day.

The respondents, by not filing a response or challenge to the arbitration award, entitle the petitioners to an order confirming the arbitration award. This Court finds as follows:

1. A Construction Contract, attached to the Application as "Exhibit 1," was entered into by the petitioners and Tygarts Valley Construction, Inc., on or about May 7, 2004.
2. The subject contract specified that the respondents herein would proceed with the construction of a home for the petitioners in Pocahontas County, West Virginia, for the price specified in the contract.
3. As construction was near completion, various problems were discovered

regarding methods and materials used in the construction, and the respondents were determined by the petitioners to be in breach of the construction contract.

4. The contract, specifically Article No. 22, page 6 of 9, specified that any disputes arising from a breach of the contract would be subject to arbitration under the rules of the American Arbitration Association.

5. An arbitration was held in Elkins, West Virginia, on the following dates: August 1 and 2, September 10, 11 and 12, 2007.

6. As a result of the arbitration, an award was entered by Arbitrator James E. Brown on November 27, 2007, to compensate the petitioners in the sum of \$392,548.97. The "Award of Arbitrator" is attached to the Application as "Exhibit 2."

7. The petitioners are now seeking a judgment order from this Court confirming the Arbitrator's Award, which would permit them to proceed to record the judgment order in all county courts where the respondents reside or conduct business.

8. This Court possesses subject matter jurisdiction pursuant to 28 U.S.C. § 1332. In addition, the parties have consented to the jurisdiction of this Court through the incorporation of the rules of the American Arbitration Association in the contract and the referral of this matter to arbitration under said rules. Said Rules provide that "[p]arties to an arbitration under these rules shall be deemed to have consented that judgment upon the arbitration award may be entered in any federal or state court having jurisdiction thereof." Commer. Arbit. R. 48(c). All matters in controversy and the arbitration itself took place within the boundaries of the Northern District of West Virginia.

9. Further, this Court is governed by 9 U.S.C. § 9, et. seq., (The Federal Arbitration Act) in which it states, "[i]f no court is specified in the agreement of the parties,

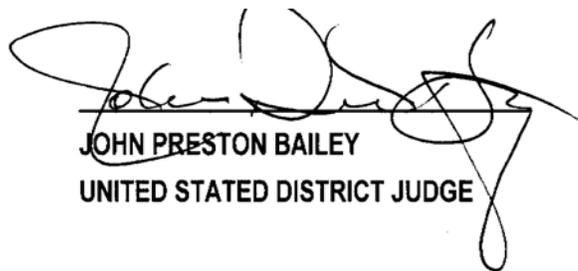
then such application may be made to the United States court in and for the district within which such award was made." 9 U.S.C.A. § 9.

Based upon the foregoing, the petitioners, Thomas Alsop and Marianne Alsop are hereby awarded **JUDGMENT** against respondents James Weese and Tygarts Valley Construction, Inc. in the amount of \$392,548.97, together with interest from the date of the award and all costs expended in this Court.

It is so **ORDERED**.

The Clerk is hereby directed to transmit copies of this Order to all counsel of record herein.

DATED: January 11, 2008.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE