Circuit Court for Howard County
Case No. C-l3-CV-19-000148

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1500

September Term, 2019

RCD RESORTS S.A. de C.V.

v.

THE STROUD GROUP, INC.

Reed,
Wells,
Gould,

JJ.

Opinion by Reed, J.

Filed: July 8, 2021

On July 24, 2015, R.C.D. Resorts S.A. de C.V. ("Appellant") and The Stroud Group, Inc. ("Appellee") entered into an Agency Agreement (the "Contract") stating that any controversy would be resolved through final, binding, and non-appealable arbitration. Subsequently, believing Appellant had breached the agreement, Appellee initiated an arbitration proceeding under the agreement. Following a hearing on the dispute, the arbitrator determined that Appellant had materially breached the Contract and entered a final award in favor of Appellee. Accordingly, Appellee initiated this action in the Circuit Court of Howard County, Maryland, with a Petition to Confirm and Enforce the Arbitration Award. In response, Appellant filed a Motion to Quash Service of Process on Appellant. Following a hearing on the issue, the Circuit Court ruled in favor of Appellee, finding that service was effective on an officer ("Apparent Officer") who expressly asserted that she was authorized to accept service for Appellant. Thereafter, Appellee filed a Motion for Confirmation of the Award and Entry of Judgment. In response, Appellant filed a Motion to Reconsider its Motion to Quash Service of Process on Appellant, which repeated the same arguments, but included a second affidavit from Apparent Officer who claimed that she was never authorized to accept service on Appellant's behalf. Nonetheless, the Circuit Court denied Appellant's motion to reconsider and confirmed the arbitration award. Appellant timely filed a notice of appeal.

In bringing its appeal, Appellant presents one question for appellate review which we have rephrased for clarity:[1]

[1] In their brief, Appellant presents the following question:

I. In confirming the arbitration award, did the Circuit Court err in finding that notice was sufficient to establish personal jurisdiction over Appellant?

Finding the notice to be sufficient, we affirm.

FACTUAL & PROCEDURAL BACKGROUND

On July 24, 2015, R.C.D. Resorts S.A. de C.V. ("Appellant") and Stroud Group ("Appellee") entered into an Agency Agreement (the "Contract"). Under the Contract, Appellee agreed to act as Appellant's agent for the procurement and installation of specific merchandise for the Hard Rock Hotel and the Nobu Hotel in Los Cabos, Mexico. The Contract contained an arbitration clause ("Arbitration Agreement") which read as follows:

> Any controversy or claim arising out of or relating to this Agreement or the breach thereof shall be settled by binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. In order to minimize the costs of the proceedings, to the extent allowable by law, the parties hereby waive any rights that they may have to pre—trial discovery. There shall only be one arbitrator, who shall be a retired judge. The award of the arbitrator shall be final, binding and non-appealable.

The Contract also contained a clause establishing venue for any subsequent arbitration and designating the controlling law in a subsequent dispute:

> This Agreement shall be deemed an agreement made under the governing laws of the state of Maryland or in which the Project is located and shall be governed by and construed in accordance with the law of said state. With respect to enforcement hereof, all parties agree that the venue of any

1. Whether the Circuit Court lacked personal jurisdiction over RCD, and therefore erred in entering judgment for Stroud, where Stroud's service of process on RCD was grounded solely on personal service of process on two individuals, both of whom have affirmatively stated they are neither employed by nor expressly or impliedly authorized to accept service for RCD, in direct contradiction to Maryland Rule 2-124.

> arbitration proceeding initiated pursuant…herein shall be in Columbia, Md., or the county in which Agent maintains an office, at the sole discretion of the party initiating the action.

After Appellee performed significant work under the agreement, Appellee asserts that Appellant materially breached the Contract by failing to make payments when due under the contract. According to Appellee, by January 26, 2018, "it became clear that Appellant's material breach of the [Contract] continued to exist and could not be resolved."

Accordingly, on January 26, 2018, Appellee filed a demand for arbitration under the arbitration clause of the Contract. On April 2, 2018, the International Centre for Dispute Resolution ("ICDR") appointed former judge Diane O. Leasure ("Arbitrator") to act as arbitrator. The ICDR provided notice of the proceeding to Appellant via FedEx and sent additional notice to Appellant and its counsel via email. On June 25, 2018, Appellant's counsel entered its appearance for the arbitration proceeding. Curiously, on August 24, 2018, Appellant's counsel withdrew their appearance. Prior to the arbitration hearing, the Arbitrator determined that Appellant had received proper notice of the proceeding. Nonetheless, despite receiving notice, neither Appellant nor Appellant's counsel appeared at the arbitration hearing. Ultimately, the Arbitrator determined that Appellant had materially breached the Contract and entered a $176,816.57 final award ("Arbitration Award") in favor of Appellee.

On February 6, 2019, Appellee filed a Petition to Confirm the Arbitration Award (the "Petition") in the Circuit Court for Howard County, Maryland. Appellee directed the process server to serve the Petition upon Roberto Chapur, Rodrigo Chapur or Paola Chapur, all of whom are officers of Appellant. Appellee learned that Appellant, although

incorporated in Mexico, operated a line of business in Florida and that Appellant's officers had residences in Florida. The process server initially attempted to serve the officers at their homes but was unable to access their residences. Next, the process server sought to serve Appellant at an office located in Coral Gables, Florida. According to Appellee, Appellant conducts a line of business out of the Coral Gable offices. At those offices, the process server initially served Roberto Chapur's sister – Mariel Chapur. However, Appellee could not determine whether Mariel Chapur was an officer or director of Appellant. Thus, Appellee directed the process server to serve the Petition upon an officer or director of Appellant at the Coral Gables office. The process server served Sandra Brazzoduro ("Ms. Brazzoduro"). On the affidavit of service, the process server declared the following:

> When service was attempted, Sandra Brazzoduro came outside of her office and said that she is authorized to accept service on behalf of RCD Resorts. She said that she is the Controller of the company.

Thus, with service having been effectuated upon an employee authorized to accept service, Appellee sought to confirm the Arbitration Award in Circuit Court. However, in its first motion or pleading in the Circuit Court, Appellant filed a Motion to Quash Service of Process on Appellant ("Motion to Quash Service").

In its Motion to Quash Service, Appellant alleged that neither Mariel Chapur nor Ms. Brazzoduro were employees of Appellant and that neither recipient was expressly or impliedly authorized to accept service on behalf of Appellant. In support of the Motion to Quash Service, Appellant included affidavits from Mariel Chapur and Ms. Brazzoduro. The relevant portions of Ms. Brazzoduro's affidavit stated:

> 2. On March 19, 2019, I was served with a copy of the complaint for the above styled action in the Coral Gables office of All Inclusive Collection LLC, which are located at 55 Miracle Mile, Suite 200, Miami, Florida 33134.
>
> 3. I am not now, nor have I ever been, a resident agent, president, secretary, treasurer, manager, director, vice president, assistant secretary, assistant treasurer, or other person expressly or impliedly authorized to receive service of process on behalf of RCD Resorts S.A. de CV ("RCD").
>
> 4. I am not now, nor have I ever been, authorized by appointment or by law to receive service of process on behalf of RCD.
>
> 5. I am employed as comptroller of All Inclusive Collection LLC.
>
> …
>
> 10. RCD does not currently have, nor has it ever had, any offices or operations at 55 Miracle Mile, Suite 200, Miami, Florida 33 134.

Mariel Chapur's affidavit was nearly identical in declarations and form, adding that Ms. Chapur was the Marketing Director of All Inclusive Collection LLC.

In response to the Motion to Quash Service, Appellee noted that Ms. Brazzoduro's affidavit did not deny that Ms. Brazzoduro told the process server that she was authorized to accept service on behalf of Appellant. Moreover, Appellee noted that Appellant and All Inclusive Collection LLC ("AIC") are closely connected entities. Namely, AIC's website states that AIC "is exclusively contracted by RCD Hotels to spearhead the sales and marketing efforts for luxury hotel properties in the U.S." Additionally, Appellee provided evidence that correspondence with Appellant under the Contract included email threads within which Appellee's primary contact was an AIC employee. Further, the email correspondence between the parties reveals that Robert Chapur (Appellant's President) has email accounts associated with both Appellant and AIC. Appellee also noted that

Appellant's website is nearly identical to AIC's website, and both entities work on/for identical hotels. Finally, Appellee asserted that Ms. Brazzoduro's statement of authority to the process server rendered service proper notwithstanding her subsequent attempt to disclaim authority to accept service on behalf of Appellant.

After a hearing on the Motion to Quash Service, the Circuit Court denied the motion. Subsequently, Appellant moved for the Circuit Court to reconsider its Motion to Quash Service ("Motion for Reconsideration") based on a second affidavit submitted by Ms. Brazzoduro. Ms. Brazzoduro's second affidavit repeated assertions from her initial affidavit, and added the following assertions:

> 3. I have reviewed the Affidavit of Service executed on March 25, 2019, signed by Christopher Mas, and filed in this action.
>
> 4. In his Affidavit of Service, Mr. Mas states I made the following statements: (a) that I told Mr. Mas I was authorized to accept service on behalf of RCD Resorts; and (b) that I told Mr. Mas I am Controller of RCD Resorts. Both these statements are false.
>
> 5. I never told Mr. Mas, or anyone else at any time, that I am authorized to accept service on behalf of RCD Resorts.
>
> 6. I never told Mr. Mas, or anyone else at any time, that I am the Controller of RCD Resorts.

The Circuit Court was unpersuaded by Ms. Brazzoduro's second affidavit and denied Appellant's Motion to Reconsider.

Appellee again moved to confirm the arbitration award. On September 25, 2019, the Circuit Court entered judgment confirming the Arbitration Award. Appellant timely appealed to this Court, arguing that Appellant never received proper service of process in the Circuit Court proceeding.

CHOICE OF LAW

We have previously stated that "[a]rbitration is purely a product of contract." *Hartford Acc. and Indem. Co. v. Scarlett Harbor Associates Ltd. Partnership*, 109 Md. App. 217, 290 (1996) (*quoting Gold Coast Mall, Inc. v. Larmar Corp.*, 298 Md. 96, 103 (1983)). Accordingly, the law governing an arbitration dispute may be contractually designated by the parties to an arbitration agreement. Here, the parties' agreed that the Contract "shall be governed by and construed in accordance with [Maryland law]." Notably, Maryland has a specific statute applicable to international arbitration disputes. *See Maryland International Commercial Arbitration Act*, MD Code, Courts and Judicial Proceedings, § 3-2B-01 *et seq*. (2006, 2020 Repl. Vol.) The Maryland International Commercial Arbitration Act ("MICAA") applies to arbitration disputes in which the "relevant place of business of at least 1 of the parties to the agreement is in a country other than the United States." MICAA § 3-2B-01. Because Appellant is designated as a Mexican corporation under the Contract, the MICAA is applicable.

The MICAA states that "[i]n all matters relating to the *process and enforcement* of international commercial arbitration and awards, *the laws of Maryland shall be the arbitration statutes and laws of the United States*." MICAA § 3-2B-03 (emphasis added). The MICAA further states that the MICAA "shall be interpreted and construed as to promote uniformity in the law of international commercial arbitration in the United States." *Id*.; accord *Walther v. Sovereign Bank*, 386 Md. 412, 432 (2005) (noting that the Federal Arbitration Act "applies to nearly all arbitration agreements, and, like all federal law, it preempts inconsistent state law"). As commentators on the MICAA's legislative history

have noted,[2] the MICAA defers to federal law for process and enforcement of international arbitrations that take place in Maryland in order to promote uniformity in the law of international commercial arbitration in the United States. Thus, in disputes arising from international commercial arbitration in Maryland, federal law is controlling to the extent that it promotes uniformity in the law of international arbitration awards in the United States.

In addition to Maryland law (MICAA), the Contract also specified that any dispute would be "settled by binding arbitration in accordance with the *Construction Industry Arbitration Rules of the American Arbitration Association*." (Record Extract at 19) (emphasis added). As we explain in our analysis, by incorporating the Construction Industry Arbitration Rules of the American Arbitration Association ("CIAAAA") into the

[2] In their 1991 Maryland Law review article, H. Bruce Dorsey and Martin Schreiber provided the following analysis for the MICAA:

> Maryland's statute, the Maryland International Commercial Arbitration Act (MICAA), defers to federal law for international arbitrations that take place in Maryland. By opting not to enact its own international arbitration statute, Maryland rejected the course chosen by other states. The MICAA aims to add certainty and uniformity to the business and legal climate for international arbitration in Maryland by providing for the exclusive applicability of federal law to the process and enforcement of international commercial arbitration in the state.
> …
> [T]he Act seeks to make Maryland more attractive for international commerce by adopting an arbitration model that defers to federal process and enforcement methods… Maryland is the first expressly to adopt federal law for its process and enforcement.

H. Bruce Dorsey & Martin Schreiber, *Legislation*, *Developments in Maryland Law*, *1989-90*, 50 Md. L. Rev. 1230, 1232 (1991) (internal footnotes omitted).

terms of the Contract, both parties consented to the notice rules of the CIAAAA.

STANDARD OF REVIEW

We review a trial court's decision regarding sufficiency of service of process to determine whether the trial court was legally correct. Accordingly, we review the trial court's determination on sufficiency of service in this case under a *de novo* standard of review. *See Pickett v. Sears, Roebuck & Co.*, 365 Md. 67, 77 (2001). Because this case involves resolution of an international commercial arbitration under the MICAA, we review the service effectuated to determine whether it complied with service of process requirements for international commercial arbitration under the law of the United States. *See supra* Choice of Law.

Moreover, "[a] circuit court's decision to grant or deny a petition to vacate or confirm an arbitration award is akin to an order granting or denying a motion for summary judgment." *Prince George's Cnty., MD. ex rel. Prince George's Cnty. Police Dep't v. Prince George's Cnty. Police Civilian Employees Ass'n*, 219 Md. App. 108, 119 (2014). Accordingly, "[t]he standard of review is de novo." *Id*. Notably, a Maryland court reviewing a final arbitration award sits in its equitable capacity. *See* Maryland Uniform Arbitration Act § 3-201(b) (defining the term "Court," as used in the MICAA subtitle, to mean "a court of equity"). As we explained in *Prince George's County*:

> Arbitrators are judges chosen by the parties to decide the matters submitted to them, finally and without appeal. As a mode of settled disputes, it should receive every encouragement from a court of equity. If the award is within the submission, and contains the honest decision of the arbitrators, after a full and fair hearing of the parties, a court of equity will not set it aside for error, either in law or fact. A contrary course would be a substitution of the judgment of the chancellor in place of the judges chosen by the parties, and

would make an award the commencement, not the end, of the litigation.

219 Md. App. at 120. Thus, in our review we are mindful that our aim is to promote prompt enforcement of arbitration awards in our equitable capacity.

DISCUSSION

A. Parties' Contentions

Appellant contends that the Circuit Court's judgment in favor of Appellee "is void and must be vacated for lack of personal jurisdiction." Specifically, Appellant contends that the Circuit Court erred as a matter of law by finding service of process sufficient to enter judgment against Appellant. Appellant makes two related arguments for the contention that service of process was insufficient in this case. First, Appellant argues that the service did not comply with Maryland law, citing Maryland Rule 2-124(d) and Maryland Rule 2-121(a) as providing the service requirements in this case. Second, Appellant argues that Appellee was required to serve Appellant according to the service rules of the Hague Convention – which applies when service of a person must be transmitted to a foreign jurisdiction. Accordingly, Appellant argues that service was ineffective because Appellee did not effectuate service under the rules of the Hague Convention. Thus, Appellant asks that we vacate the Circuit Court's confirmation of the Arbitration Award on the theory that insufficient service of process deprived the Circuit Court of the requisite personal jurisdiction over Appellant.

Appellee responds by arguing that the service upon Ms. Brazzoduro was proper and complied with Maryland law because Appellee "personally served an individual whom asserted to be authorized to accept service." Appellee notes that Ms. Brazzoduro, in her

first affidavit to the Circuit Court, did not deny that she had authority to accept service on behalf of Appellant. Ms. Brazzoduro subsequently denied that she told process server that she had authority to accept service on behalf of Appellant only after the Circuit Court denied Appellant's Motion to Quash Service on Appellant. Moreover, Appellee contends that the notice function of service of process was accomplished in this case, and Appellant cannot argue "that it did not have fair notice of the action against it and the resulting fair opportunity to be heard." (internal citation omitted). Further, Appellee argues that the Hague Convention is not applicable in this case because the Hague Convention only applies "where there is occasion to transmit a judicial or extrajudicial document for service abroad." Additionally, Appellee notes that the Hague Convention is not applicable because the forum selected by both parties under the Contract was Maryland, which has its own rules for service of process. Thus, Appellee asks that we uphold the Circuit Court's decision to confirm the Arbitration Award.

B. Analysis

Potential Methods of Service for Confirmation of Arbitration Award

We first note that neither Appellant nor Appellee cited the MICAA,[3] the Maryland statute directly applicable to this dispute, as controlling. Presumably, neither party did so because the MICAA does not have a specific notice provision. However, because the MICAA defers to federal law for the process and enforcement of arbitration awards, the laws and statutes of the United States provide the relevant notice requirements in this case.

[3] See discussion of the MICAA *supra* at 7-9.

Indeed, while both parties correctly cite Rule 2-121(a) and 2-124(d) as providing a possible method for effectuating service of process in this case, Rule 2-121 contemplates that service may be effectuated through other applicable statutes or rules:

MD Rules, Rule 2-121
RULE 2-121. PROCESS--SERVICE--IN PERSONAM

> **(a) Generally.** Service of process may be made within this State or, when authorized by the law of this State, outside this State (1) by delivering to the person to be served a copy of the summons, complaint, and all other papers filed with it; (2) if the person to be served is an individual, by leaving a copy of the summons, complaint, and all other papers filed with it at the individual's dwelling house or usual place of abode with a resident of a suitable age and discretion; or (3) by mailing to the person to be served a copy of the summons, complaint, and all other papers filed with it by certified mail requesting: "Restricted Delivery – show to whom, date, address of delivery." Service by certified mail under this Rule is complete upon delivery. *Service outside of the State may also be made in the manner prescribed by the court or prescribed by the foreign jurisdiction if reasonably calculated to give actual notice*.
>
> * * *
>
> **(d) Methods Not Exclusive.** *The methods of service provided in this Rule are in addition to and not exclusive of any other means of service that may be provided by statute or rule for obtaining jurisdiction over a defendant*.

(emphasis supplied). Thus, while the rule provides specific methods for effectuating proper service, those methods are not exclusive. Additionally, Rule 2-124(d) simply provides who may be served when effectuating service upon a corporation under Rule 2-121(a):

MD Rules, Rule 2-124
RULE 2-124. PROCESS--PERSONS TO BE SERVED

* * *

> **(d) Corporation.** Service is made upon a corporation, incorporated association, or joint stock company by serving its resident agent, president, secretary, or treasurer. If the corporation, or joint stock company has no resident agent or if a good faith attempt to serve the resident agent, president, secretary, or treasurer has failed, service may be made by serving the manager, any director, vice president, assistant secretary, assistant treasurer, or other person expressly or impliedly authorized to receive service of process.

Regardless, because the MICAA specifically designates the laws and statutes of the United States as controlling the process and enforcement of arbitration awards, notice may be effectuated in any manner allowed under federal law for confirmation of an arbitration award.

We reiterate that under both Maryland and federal law, arbitration proceedings are primarily a matter of contract law. *See AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 339 (2011) (noting the "fundamental principle that arbitration is a matter of contract"); *Walther*, 386 Md. at 425 ("Whether a valid arbitration agreement exists…depends on contract principles since arbitration is a matter of contract.") (internal quotes omitted). Thus, we continue our analysis by recognizing an additional service method available to Appellee for enforcement of the arbitration award. Namely, a method of service both parties consented to under the Contract.

Where an agreement to arbitrate incorporates American Arbitration Association ("AAA") rules as governing the dispute, notice provisions under the AAA may provide additional methods of effectuating notice in a subsequent proceeding to confirm an arbitration award. *See Reed & Martin, Inc. v. Westinghouse Elec. Corp.*, 439 F.2d 1268 (1971) (applying AAA rule 39(b) notice and jurisdiction provision because the AAA rules

were incorporated into the parties' arbitration agreement, and the rule stated that '[e]ach party to an agreement which provides for arbitration under these Rules shall be deemed to have consented" to the notice and jurisdiction rules of the AAA.); *P & P Industries, Inc. v. Sutter Corp.*, 179 F.3d 861 (10th Cir. 1999) (finding that where arbitration clause mandated that any disputes be arbitrated before the AAA, both parties to the agreement agreed to be bound by AAA's procedural rules); *International Broth. of Elec. Workers, Local Union 824 v. Verizon Florida, LLC*, 803 F.3d 1241 (11th Cir. 2015) (finding that AAA labor arbitration rules were incorporated into collective bargaining agreement based on agreement by union and employer to submit to AAA arbitration); *accord National Equipment Rental, Ltd. v. Szukhent*, 375 U.S. 311, 315 (1964) ("And it is settled, as the courts below recognized, that parties to a contract may agree in advance to submit to the jurisdiction of a given court, to permit notice to be served by the opposing party or even to waive notice altogether.").

In the present case, the parties agreed that any dispute under the Contract would be "settled by binding arbitration in accordance with the *Construction Industry Arbitration Rules of the American Arbitration Association*." (emphasis added). Accordingly, the parties agreed to incorporate the rules of the CIAAAA, and thereby consented to CIAAAA Rule 44 which states:

> (a) *Any papers, notices, or process necessary or proper* for the initiation or continuation of an arbitration under these rules; *for any court action in connection therewith*; or for the entry of judgment on any award made under these; rules *may be served on a party by mail addressed to the party or its representative at the last known address or by personal service*, in or outside the state where the arbitration is to be held, *provided that reasonable opportunity to be heard with regard thereto has been granted to the party*.

> (b) The AAA, the arbitrator and *the parties may also use* overnight delivery, electronic fax transmission (fax), or *electronic mail* (email) *to give the notices required by these rules*. Where all parties and the arbitrator agree, notices may be transmitted by other methods of communication…

(emphasis added). Moreover, CIAAAA Rule 27 clearly indicates that the term "representative" applies to attorneys for the named parties.[4] Thus, by agreement, Appellee was permitted to effectuate service upon Appellant or Appellant's attorney to satisfy due process notice requirements for confirmation of the arbitration award in Circuit Court. Indeed, it seems reasonable to conclude that by agreement, Appellant's attorney was expressly authorized to accept service on behalf of Appellant under Maryland Rule 2-124(b). Accordingly, Appellant's contention that the Hague Convention controls falls under its own weight. Service upon Appellant's attorney would not require service of process to be sent abroad. Thus, because the Hague Convention only applies "where there is occasion to transmit a judicial or extrajudicial document for service abroad," Appellee was not required to effectuate service according to the Hague Convention. *See Convention done at The Hague*, 20 U.S.T. 361, 362 (November 15, 1965).

Personal Jurisdiction and Notice Requirements to Confirm Arbitration Award

[4] CIAAAA R-27. Representation

> Any party may participate without representation (pro se), or by counsel or any other representative of that party's choosing, unless such choice is prohibited by applicable law. A party intending to have representation shall notify the other party and the AAA of the name, telephone number and address, and email address if available, of the representative at least seven calendar days prior to the date set for the hearing at which that person is first to appear. When such a representative initiates an arbitration or responds for a party, notice is deemed to have been given.

Notably, both parties in this case agreed that the Contract "shall be deemed an agreement made under the governing laws of the state of Maryland." Thus, the Contract by its terms automatically subjects Appellant to the personal jurisdiction of Maryland court's through Maryland's long arm statute. *See* MD Code, Courts and Judicial Proceedings, § 6-103 (conferring personal jurisdiction over parties to contracts formed in the State of Maryland). Accordingly, the only remaining question is whether the service performed by Appellee "provided the fair notice required by due process." *See InterCarbon Bermuda, Ltd. v. Caltex Trading & Transp. Corp.*, 146 F.R.D. 64, 67–68 (S.D.N.Y.1993) (holding that service of a petition for confirmation of an arbitration award was sufficient – notwithstanding the absence of strict compliance with service of process requirements – because the "sole function of process in [that] case was ...to notify...that proceedings had commenced"); *see also Victory Transp., Inc. v. Comisaria General de Abastecimientos y Transportes*, 336 F.2d 354, 363, 364 (2d Cir.1964) (same). This seemingly relaxed federal standard for service of process pursuant to confirmation of arbitration awards was explained in *InterCarbon*:

> *Defects in service of process may nevertheless be excused where considerations of fairness so require, at least in cases that arise pursuant to arbitration proceedings*. In one case, a motion to stay a court action pending arbitration was served on a foreign party's attorneys, and was held sufficient as a demand for arbitration. The Court found jurisdiction to be unquestionable because the parties agreed to arbitrate in New York, and it then explained that "[r]egardless of the precise legal status of [the] attorneys ... no unfairness results from giving effect to the notice they actually received."
> …
> Goals of regular procedure weigh in balance with goals of fairness.

146 F.R.D. at 67–68 (emphasis added) (internal citations omitted). Thus, under federal

law, where a corporation is subject to a court's personal jurisdiction pursuant to an arbitration agreement, the essential function of service is to provide adequate actual notice of the proceeding to the satisfaction of federal due process requirements. This is rooted in the understanding that proceedings to confirm a valid arbitration award are "summary in nature." *Taylor v. Nelson*, 788 F.2d 220 (4th Cir. 1986); *accord D.H. Blair & Co., Inc. v. Gottdiener*, 462 F.3d 95 (2nd Cir. 2006) (stating that "confirmation of an arbitration award is a summary proceeding that merely makes what is already a final arbitration award a judgment of the court"). Thus, if the service in the case at bar was sufficient to notify Appellant that a proceeding had commenced, the service was sufficient to perfect the Circuit Court's exercise of personal jurisdiction over Appellant.

We hold that here, service upon two officers of AIC was sufficient to notify Appellant that a proceeding had commenced. AIC is "exclusively contracted by [Appellant] to spearhead the sales and marketing efforts for [Appellant's] luxury hotel properties in the U.S." Moreover, the record indicates that Appellant's president – Roberto Chapur – has email account's associated with both Appellant and AIC. Further, both email accounts are included in email correspondence between Appellee and Appellant regarding the Contract at issue. Notably, Appellee's main contact for correspondence relating to work under the Contract was an AIC employee. Finally, Ms. Brazzoduro's initial assertion of authority to accept service on behalf of Appellant, although subsequently, provides a compelling basis to conclude that, based on these facts, service effective. We do not hold that a similar assertion of authority will always compel the same result. However, given the circumstances indicating that Appellant had actual notice of the proceeding and

Appellee's reliance on Ms. Brazzoduro's assertion of authority in order to promptly confirm an already final arbitration award, we feel that fairness considerations weigh in favor of finding that service was accomplished in this case.

In addition to the notice provided to the officers of AIC, Appellant had already received proper notice of the underlying arbitration proceeding which was a final and non-appealable judgment. Moreover, Appellant's attorney was notified of the Petition to confirm the arbitration award – a form of notice which Appellant consented to by agreeing to incorporate the CIAAAA notice rules into the Contract. Although it is not clear whether Appellant's attorney received a formal summons, from the record, it appears that Appellant's representative was notified of the dispute.

Thus, we are satisfied that any defects in the service of process may be excused based on the unique circumstances presented here. The record reveals that Appellant made no effort to participate in the arbitration proceeding despite receiving adequate notice. Appellant proceeded in a similar manner in the subsequent confirmation proceeding. Appellant had ample notice that this proceeding had commenced via service upon an officer – of a company which Appellant's president appears to be connected – who asserted to be authorized to accept service on behalf of Appellant at the time service was effectuated. More importantly, Appellant's representative received actual notice of the confirmation proceeding, which the parties agreed under the Contract (by incorporating CIAAAA Rules) would be sufficient to provide notice and confer jurisdiction over Appellant to confirm the final award. Because the Contract automatically conferred personal jurisdiction over the final arbitration award, and the notice to Ms. Brazzoduro and Appellant's counsel

"provided the fair notice required by due process," no unfairness results in allowing the Circuit Court to exercise jurisdiction over Appellant. *InterCarbon*, 146 F.R.D. at 67–68. Our holding in this case is consistent with the MICAA's stated purpose to "promote uniformity in the law of international commercial arbitration in the United States."

CONCLUSION

We hold that Appellant received sufficient notice of Appellee's petition to confirm the final arbitration award, therefore, the Circuit Court properly exercised personal jurisdiction over Appellant. The terms of the Contract subjected the parties to the jurisdiction of this state's courts and the use of our procedural and substantive laws. Appellant received proper notice of the underlying arbitration proceeding and received notice of the Circuit Court's confirmation proceeding based on service of an officer (Ms. Brazzoduro) who had expressed authority to receive service on Appellant's behalf. And even if Ms. Brazzoduro did not possess such authority, Appellant received notice of the proceeding through its attorney, who the parties expressly agreed under the Contract was authorized to accept service on Appellant's behalf. Finally, if any defects in service still existed they may be excused in the interest of fairness based on the circumstances presented here. This conclusion is consistent with the uniform implementation of federal law for the resolution of international arbitration disputes under the MICAA. Thus, we affirm the Circuit Court's confirmation of the arbitration award.

JUDGMENT OF THE CIRCUIT COURT FOR HOWARD COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.