

Court Enforces Arbitration Clause Against Personal Guarantors, but Restricts Venue

A recent case from a Michigan federal court represents a mixed bag for franchisors seeking to require arbitration of claims brought by franchisees. In *Binder v. Medicine Shoppe Int'l, Inc.*, 2010 U.S. Dist. LEXIS 72614 (E.D. Mich. July 20, 2010), a corporate franchisee signed a franchise agreement containing an arbitration clause. Its principals also signed personal guaranty agreements, under which they agreed to be personally bound by the franchise agreement.

When a dispute arose between the parties, the franchisor commenced arbitration against both the corporate franchisee and the personal guarantors in St. Louis, MO, in accordance with the franchise agreement. The corporate franchisee asked the American Arbitration Association to transfer the arbitration to Michigan, but that request was denied. The corporate franchisee and individuals then sued in Michigan, with the individuals claiming they were not personally bound by the franchise agreement's arbitration clause. The franchisor filed a motion to compel arbitration, arguing in part that the individuals had waived their right to raise their claims by participating in the underlying arbitration proceeding. The court rejected that argument, finding that the individuals had participated in the arbitration in their capacity as corporate officers.

The court did find, however, that the individuals were bound to arbitrate their claims by virtue of the personal guarantees they signed, in which they assumed the corporation's obligations under the franchise agreement, including the obligation to arbitrate claims. While the court required the individuals to arbitrate their claims, it found that the franchisor had materially misrepresented the nature of the arbitration clause. The franchisor's UFOC stated that Michigan law prohibits franchise agreements from requiring arbitration outside of Michigan, even though that law is preempted by the Federal Arbitration Act. The corporate franchisee and individuals contended that they relied on that representation in signing the franchise agreement and that they would not have accepted the agreement had they known they might be required to arbitrate in a different state. The court found that the individuals had reasonably relied on the franchisor's representation that any arbitration proceeding would take place in Michigan, and ordered arbitration to proceed in that venue.