

SHORT FORM ORDER

SUPREME COURT OF THE STATE OF NEW YORK

PRESENT: HON. DENISE L. SHER
Acting Supreme Court Justice

UNITED STATES MERCHANTS PROTECTIVE CO, INC.,

TRIAL/IAS PART 32
NASSAU COUNTY

Petitioner,

Index No.: 603228/19

Motion Seq. No.: 01

- against -

Motion Date: 04/04/19

XXX

TRIPLE CROWN AUTO SALES PREP CENTER INC. and
ALEX SALEEM,

Respondents.

The following papers have been read on this application:

	Papers Numbered
Notice of Petition, Verified Petition, Affirmation and Exhibits	1

Upon the foregoing papers, it is ordered that the application is decided as follows:

Petitioner moves, pursuant to CPLR §§ 7510 and 7514, for an order confirming the December 6, 2018 Arbitration Award, issued by Arbitration Services, Inc., in the sum of \$14,261.82, with costs, disbursements, and interest from December 6, 2018, and granting additional counsel fees in the sum of \$1,500.00. No opposition was submitted to the application.

Counsel for petitioner submits, in pertinent part, that, “[o]n October 27, 2017 and on January 31, 2017, the parties entered into written agreements, ..., whereby they agreed that any controversy or claim arising out of or relating to the agreement should be settled in accordance with the Commercial Arbitration Rules. Petitioner commenced an arbitration on October 29, 2018 by serving its Demand for Arbitration,... Pursuant to the Arbitration Rules, the Arbitration

Company served notice of the arbitration proceeding on October 31, 2018 as confirmed by the affidavit of service by Arbitration Service Inc.'s representative,... The Demand for Arbitration was served on Respondents in accordance with Commercial Arbitration Rule 33(a),... The Commercial Arbitration Rules set forth the procedure for default at arbitration. Commercial Arbitration Rule 6(f) states that '[i]f no answer statement is filed within the stated time Respondent shall be deemed to be in default.'... Respondents failed to answer the demand for arbitration, and in accordance with the Commercial Arbitration Rules, were deemed to be in default. On December 6, 2018, Allan L. Pullin, as arbitrator, after having taken the oath prescribed by law and after the parties had duly submitted their proofs or had the opportunity to do so, and having fully considered all of the evidence and agreements submitted and having come to a decision, duly made his award in writing, whereby he determined and awarded that there is \$14,261.82 due to Petitioner from Respondents, jointly and severally.... On December 11, 2018, in accordance with CPLR § 7507, the arbitrator delivered a copy of the award to each party in the manner provided in the agreement to arbitrate.... Respondents have not complied with the award as set forth in the Commercial Arbitration Rules. Commercial Arbitration Rule 38(c) states that '[i]f a party fails to timely comply with the award, a party commencing a proceeding in a court of law to confirm or enforce the award shall be permitted to (*sic*) additional counsel fees for post arbitration proceedings as the court may deem appropriate.'... The attorney fees awarded by the arbitrator compensated only for the legal services rendered in obtaining the award and not for the legal services necessary to confirm and enforce the award. Petitioner shall incur additional legal fees to confirm the award and enforce the judgment and requests \$1,500.00 additional counsel fees. [citations omitted].... This application is made within one year of delivery of the

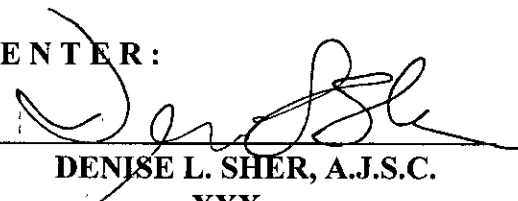
award to Petitioner. The award has not been vacated or modified upon any ground specified in CPLR § 7511." See Petitioner's Affirmation in Support Exhibits A-D.

As previously indicated, no opposition was submitted to the application.

Based upon the evidence presented to the Court, petitioner's application, for an order confirming the December 6, 2018 Arbitration Award, issued by Arbitration Services, Inc., in the sum of \$14,261.82, with costs, disbursements, and interest from December 6, 2018, and granting additional counsel fees in the sum of \$1,500.00, is hereby **GRANTED**.

This constitutes the Decision and Order of this Court.

ENTER:



DENISE L. SHER, A.J.S.C.
XXX

Dated: Mineola, New York
May 1, 2019

ENTERED
MAY 02 2019
NASSAU COUNTY
COUNTY CLERK'S OFFICE