IN THE SUPREME COURT OF THE STATE OF NEVADA

KEN SHAMROCK, INC., A CALIFORNIA CORPORATION,
Appellant,
vs.
ZUFFA, LLC, A NEVADA LIMITED LIABILITY COMPANY,
Respondent.

No. 55621

FILED

NOV 18 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY H. Ingerson
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court judgment in a contract action. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

Appellant Ken Shamrock, Inc., filed a claim against respondent Zuffa, LLC, on the basis of an alleged breach of contract. Shamrock and Zuffa entered into a contractual agreement in which Zuffa was to promote Shamrock's future fights. Following Shamrock's public retirement, Zuffa deemed the agreement suspended. Nine months later, Shamrock came out of retirement and demanded that Zuffa carry out the terms of the agreement. When Zuffa refused, Shamrock brought suit for breach of contract. Following a bench trial, the district court entered judgment in favor of Zuffa.

On appeal, Shamrock assigns the following error: (1) the district court erred in concluding that Zuffa was not required to provide him with a second fight under the terms of the agreement, and (2) the district court erred in finding that he waived his right to sue for a breach of the agreement.

We affirm the judgment of the district court. As the parties are familiar with the facts, we do not recount them further except as necessary to our disposition.

The district court did not err in concluding that Zuffa was not required to provide Shamrock with a second fight under the terms of the agreement

Shamrock argues that the district court erred in concluding that Zuffa was not required to provide him with a second fight under the terms of the agreement. We disagree.

The interpretation of a contract is a question of law subject to de novo review. May v. Anderson, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005). The primary objective in interpreting a contract is to give effect to the intent of the parties. Sheehan & Sheehan v. Nelson Malley & Co., 121 Nev. 481, 488, 117 P.3d 219, 224 (2005). "[W]hen a contract is clear on its face, it 'will be construed from the written language and enforced as written.'" Canfora v. Coast Hotels & Casinos, Inc., 121 Nev. 771, 776, 121 P.3d 599, 603 (2005) (quoting Ellison v. C.S.A.A., 106 Nev. 601, 603, 797 P.2d 975, 977 (1990)). We seek to construe the contract as a whole, so that all of the provisions are considered together and, to the extent practicable, reconciled and harmonized. Eversole v. Sunrise Villas Homeowners, 112 Nev. 1255, 1260, 925 P.2d 505, 509 (1996).

Within their agreement, the parties drafted Recital G, which reads: "[Shamrock] has determined the first Bout will be his final, after which he may retire, but has agreed to one additional Bout with ZUFFA in the event [Shamrock] should either elect not to retire, or to come out of retirement to fight again." This provision specifically provides that Shamrock agreed to one additional fight with Zuffa if he elected not to retire or later come out of retirement. While Shamrock expressly agreed to one additional fight, there is nothing within the language of Recital G

that indicates the promise was mutual or, in other words, that Zuffa was obligated to promote a second fight for Shamrock if he chose not to retire or decided at a later date to come out of retirement. To construe Recital G otherwise would read language into the agreement and contravene this court's jurisprudence of enforcing a contract as written. See, e.g., Ellison, 106 Nev. at 603, 797 P.2d at 977 ("It has long been the policy in Nevada that absent some countervailing reason, contracts will be construed from the written language and enforced as written.")

Shamrock asserts that the language in sections 4.2 and 5.1 of the agreement is in conflict with the language in Recital G. Shamrock contends that because section 4.2 requires Shamrock to "participate in the minimum number of Bouts set forth in the Term," and section 5.1 defines the term as "commenc[ing] on the Effective Date and end[ing] on the earlier of (i) twelve (12) months after the date of the first bout promoted by ZUFFA involving [Shamrock] . . . or (ii) the date on which [Shamrock] has participated in at least two (2) Bouts promoted by ZUFFA," Zuffa was required to promote a minimum of two Bouts. We disagree.

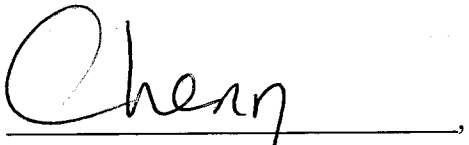
Shamrock's reading of section 5.1, with emphasis on subsection (ii), while ignoring subsection (i)—providing that the agreement may terminate 12 months after the first Bout—renders subsection (i) nugatory. We do not interpret contracts to render provisions meaningless. See Coblentz v. Union Welfare Fund, 112 Nev. 1161, 1169, 925 P.2d 496, 501 (1996). The district court found that nothing within the language of Recital G required Zuffa to promote a second fight for Shamrock. We conclude that the district court's findings were supported by substantial evidence. This court may not disregard the district court's

factual findings when they are supported by substantial evidence. NC-DSH, Inc. v. Garner, 125 Nev. ___, ___, 218 P.3d 853, 860 (2009).

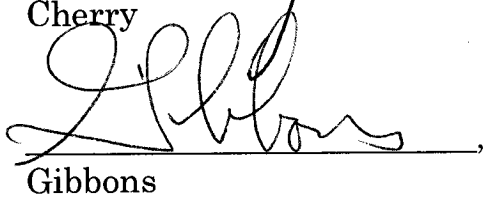
The district court did not err in its finding that Shamrock waived his right to sue for a breach of the agreement

Shamrock argues that the district court erred in finding that Shamrock waived his right to sue for breach of the agreement. We will not disturb a district court's finding of a waiver if it was supported by substantial evidence. See Costanzo v. Marine Midland Realty, 101 Nev. 277, 280, 701 P.2d 747, 749 (1985). The district court's finding of waiver is supported by substantial evidence and supports an alternative basis for affirmance. For the foregoing reasons,[1] we

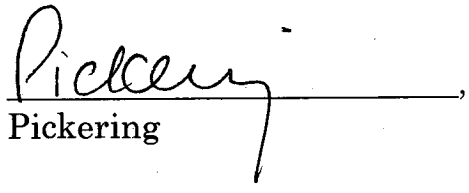
ORDER the judgment of the district court AFFIRMED.



_____, J.
Cherry



_____, J.
Gibbons



_____, J.
Pickering

[1]We have reviewed all of Shamrock's remaining contentions and conclude that they are without merit.

cc: Hon. Susan Johnson, District Judge
Ara H. Shirinian, Settlement Judge
Ryan, Mercaldo, & Worthington, LLP
Teeple Hall, LLP
Janet S. Markley
Campbell & Williams
Eighth District Court Clerk