

Remond Henderson, Director
Division of Administrative
Services
Department of Community &
Regional Affairs

November 6, 1991

663-92-0225

465-3600

Belcher/Knight
contract dispute

Marjorie L. Odland
Assistant Attorney General
Governmental Affairs-Juneau

You have asked us to review documents related to a request for payment from Dixie Belcher who claims to have been hired to perform certain services for the State of Alaska by Robert Knight, former director of the division of municipal and regional assistance, and determine if a valid contract exists obligating payment of the claim to Ms. Belcher.

In brief, it is our opinion that no express or specific contract between Ms. Belcher and the state exists. 1/ However, we believe there is sufficient evidence to support a finding of the existence of an implied contract. Therefore, based upon the equitable doctrine of quantum meruit, 2/ we recommend that the department compensate Ms. Belcher with a reasonable amount for the services rendered to the state, as noted herein.

Summary of Facts

Briefly summarizing the facts from documents provided us, Ms. Belcher was contacted by Bob Knight by letter dated June 4, 1991. In the letter, Knight confirmed his interest in having Ms. Belcher set up and act as a consultant for a trip that Mr. Knight, in his official capacity as a state official, anticipated taking to the Soviet Union. The letter also set forth the state's intended purpose and goals of the trip as well as a proposed amount of compensation as follows:

1/ Failure to have a signed, written contract for services violates the State Procurement Code (AS 36.30) and standard state procedures (AAM 82.080(A)).

2/ "Quantum meruit" is based upon the concept that no one who benefits by the labor and materials of another should be unjustly enriched thereby; under those circumstances, the law implies a promise to pay a reasonable amount for the labor and materials furnished, even absent a specific contract therefore. Black's Law Dictionary (p. 1119) (citing Swiftships, Inc. v. Burdin, 338 So. 2d 1193, 1195 (La. App. 1976)).

We (the State) expect to provide you (Ms. Belcher) with approximately \$1,200.00 worth of air transportation as tickets to and from Copenhagen - Moscow - Copenhagen and \$3,000.00 for your services as a guide and consultant to this effort.

I understand that you will be in contact with me from Moscow toward the end of this month or the first part of July to firm up arrangements.

Even though a formal contract for the above-referenced services and proposed compensation was never written or agreed to by the parties, Ms. Belcher proceeded to set up a travel/meeting itinerary for Mr. Knight. It is evident that Mr. Knight and Ms. Belcher kept in contact through the month of July with respect to Knight's anticipated trip to Moscow, as Knight was met at the Moscow airport by Ms. Belcher on August 4, 1991. See Draft Summary Report from R. Knight to E. Blatchford (undated).

After his arrival in U.S.S.R., Mr. Knight was introduced to various Soviet officials. The introductions and meetings evidently were coordinated by Ms. Belcher. Ms. Belcher continued to accompany Knight in the U.S.S.R. until the Soviet coup attempt in the latter part of August 1991. Ms. Belcher then returned to the United States on or about August 26 or 27, 1991.

Mr. Knight was unable to leave the U.S.S.R. with Ms. Belcher. After the coup ended, Knight continued to meet with local officials in Yakutsk and Tiksi. It is unclear if Ms. Belcher was responsible for setting up the meetings attended by Knight after she left the U.S.S.R. Mr. Knight returned to the United States on September 4, 1991.

Legal Analysis

Upon review of the documents provided us, it is evident that no express or specific contract for Ms. Belcher's services to act as a guide and consultant in the U.S.S.R. to Mr. Knight exists. ^{3/} The letter of June 4, 1991, does not constitute a contract. In that letter, Mr. Knight merely confirms his "interest" in having Ms. Belcher set up and guide a trip in the U.S.S.R. Ms. Belcher clearly proceeded to perform services

^{3/} The formation of an express contract requires an offer encompassing its essential terms, an unequivocal acceptance of the terms of the offeree, consideration and an intent to be bound. Childs v. Kalgin Island Lodge, 779 P.2d 310 (Alaska 1989).

(evidently based upon the June 4 letter) without a valid contract. However, it is our opinion that Ms. Belcher's belief that she was performing services for which she would be compensated is not unreasonable in light of Mr. Knight's acceptance of some of her guiding and consulting services.

Under the doctrine of quantum meruit, essential elements of recovery are:

1. valuable services were rendered
2. for the person (state) seeking the services
3. which services were accepted by and enjoyed by the person; and
4. under such circumstances as reasonably notified, the person accepting services was expected to pay for the services.

Assuming there is no dispute that the consulting services rendered by Ms. Belcher were of value to the state, 4/ parts (1) and (2) of the doctrine are satisfied. As to part (3), it is evident that Mr. Knight accepted and used some of the services of Ms. Belcher. For example, Mr. Knight kept in contact with Ms. Belcher's office to arrange for his Soviet VISA prior to his departure to Moscow; he was met by Ms. Belcher at the Moscow airport; and he proceeded to follow the travel and meeting itinerary as set by Ms. Belcher. Therefore, we believe it is reasonable for Ms. Belcher to assume she will receive some compensation for these services.

The important question remaining concerns the "amount" of compensation owed Ms. Belcher. Based upon the doctrine of quantum meruit, she is entitled to be paid a "reasonable amount" for the services provided.

The offer of compensation in Mr. Knight's letter of June 4, 1991, is expressed as an expectation to provide her with

4/ According to a letter of introduction dated August 2, 1991, signed by Marty Rutherford, Deputy Commissioner of DCRA, Mr. Knight was traveling to the U.S.S.R. on behalf of the State of Alaska. Presumably, a copy of this letter was made available to Ms. Belcher to assist in arranging meetings with various Soviet officials for Knight's trip.

"approximately" \$1,200 for airfare (round-trip Copenhagen/Moscow) and \$3,000 for guiding and consulting services. We believe it is not unreasonable for Ms. Belcher to assume she is entitled, at least, to this amount of compensation.

However, Ms. Belcher claims she is entitled to reimbursement for costs totalling \$6,186, as follows:

1. \$2,515 in airline costs;
(Seattle/Copenhagen/Moscow/Copenhagen/Seattle - \$2045;
Juneau/Seattle/Juneau - \$470);
2. \$3,000 stipend; and
3. \$671 in telephone calls. 5/

As to the airline costs, there is no evidence in the June 4, 1991, letter that the state offered to pay Ms. Belcher's entire travel costs from Juneau to Moscow and return. In fact, it is clear in the letter that the state offered only to pay the travel costs from Copenhagen-Moscow-Copenhagen. Evidently, Ms. Belcher was already intending to travel to Copenhagen on other business not associated with services for Mr. Knight's trip to the Soviet Union. Unless there is evidence to the contrary, we do not believe it is reasonable for Ms. Belcher to assume the state will compensate her for other than the Copenhagen-Moscow-Copenhagen portion of her travel costs.

Finally, aside from Ms. Belcher's claim, there is no written evidence that Mr. Knight offered or agreed to reimburse Ms. Belcher for telephone costs associated with her setting up the trip. Absent an agreement, or other evidence to the contrary, the state is not obligated to reimburse her for telephone calls made in connection with setting up the trip for Mr. Knight. However, under the doctrine, you may determine she has a "reasonable" expectation of reimbursement. We leave that decision to your department, as well as a determination of whether the amount requested is reasonable.

Conclusion

5/ Two of the bills submitted by Ms. Belcher are identical. Actual costs for phone calls appear to total \$600; not \$671.

It is our opinion that no express or specific contract exists between Ms. Belcher and the state. However, we believe there is evidence of an implied contract justifying use of the equitable doctrine of quantum meruit to provide Ms. Belcher with some compensation for her services. We suggest that Ms. Belcher at least be compensated in the amount proposed in the June 4, 1991 letter (\$4,200). Of course, the department may increase, or decrease, the amount of compensation we suggest here. Ultimately, a determination must be made by your department as to what is "reasonable" compensation based upon the doctrine of quantum meruit as discussed above.

In responding to Ms. Belcher's claim, you should inform her that she is entitled to appeal the department's determination under AS 44.77 (claims against the state), 6/ if she disagrees with the department's determination of reimbursable costs.

If you have further questions, please do not hesitate to call us.

MLO:ck

cc: Edgar Blatchford, Commissioner
Department of Community and Regional Affairs

Max Hodel, Chief of Staff
Governor's Office

6/ Because there is no express written contract as required under AS 36.30, it is our opinion that the contract dispute procedures of the Procurement Code (AS 36.30.620) do not apply in this matter.