

STATE OF SOUTH CAROLINA)
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COUNTY OF GREENVILLE)
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Revenue Cycle Enhancements, Inc.,)
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Plaintiff,)
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vs.)
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Eric D. Snyder)
)
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Defendants.)
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IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
C.A. NO. 2014-CP-23-04098

ORDER **RECEIVED**
JUN 15 2016
SC Court of Appeals

This matter was referred to this Court on August 24, 2015 for further proceedings, including the taking of testimony and entry of judgment, by consent order of reference pursuant to Rule 53 of the *South Carolina Rules of Civil Procedure*. Accordingly, a non-jury trial was conducted on March 23, 2016. Adam C. Bach of the law firm Eller Tonnsen Bach, LLC appeared on behalf of the plaintiff, Revenue Cycle Enhancements, Inc. ("RCE"). J. Charles Ormond, Jr. of the law firm Ormond/Dunn appeared on behalf of the defendant, Eric D. Snyder. Defendant NCSPLUS, Inc., was previously dismissed from the case by consent of the parties.

During trial, the Court heard testimony from Demetrius Hagins, owner and principal of RCE, and from Eric D. Snyder, the named-defendant. The Court also considered exhibits and evidence entered by the parties. Following a review of the testimony and evidence, the Court finds and concludes as follows.

Findings of Fact

From the testimony and evidence presented, it appears that RCE is a business engaged in consulting with healthcare providers, such as hospitals, on their revenue, bill cycles, and collections. In its capacity as a consultant, RCE has the opportunity to introduce and recommend

third-party vendors to its clients. Snyder and his company NCSPLUS were engaged in the billing and collection industry with a particular focus in providing billing and collection services to health care providers.

In 2012, Hagins and Snyder became acquainted. From the communications between Hagins and Snyder, it is clear that Hagins through RCE agreed to provide Snyder with introductions to his clients. It is also clear that RCE did in fact provide Snyder with introductions to several of his client-hospitals, including Memorial Health System in Ohio (“MHS”).

The dispute between the parties is whether Snyder agreed to pay RCE a commission for any contracts or customers NCPLUS obtained through RCE’s introductions. RCE alleges that Snyder agreed to pay RCE a 5% commission on any billings to clients that NCPLUS obtained through RCE’s introduction. Snyder denies that he agreed to pay any commissions or that his payment of any commissions was induced by RCE’s misrepresentations of its relationship with its clients. Snyder filed counterclaims against RCE.

The testimony and evidence shows that NCPLUS obtained two contracts with MHS following an introduction by RCE. The first contract began in 2012 and ran through the first part of 2013. On the first contract RCE sent twelve invoices to Snyder at his home address. The invoices show RCE as the payee and describe the invoiced amounts as for “consulting services.” The amount invoiced is a reflection of the alleged commission rate. Snyder paid all twelve of these invoices by personal check without objection.

NCSPLUS’s second contract with MHS began in early 2013, overlapping with the first contract, and ran until December 2014. RCE sent timely invoices to Snyder on the second contract. Each invoice showed that it was from RCE, described the services provided as

“consulting services,” and invoiced an amount consistent with the commission rate claimed by RCE. RCE sent Snyder a total of eighteen invoices on the second contract from February 27, 2013 through December 1, 2014. The evidence shows that Snyder paid the first eight invoices on the second contract by personal check. The checks Snyder sent are made out to RCE, and the memorandum line on each check references RCE’s invoice number, states “Demetrius Hagins” and contains the contract number for NCSPLUS’s second contract with MHS. Snyder did not object to any of these invoices.

Beginning with the ninth invoice – September 1, 2013 - Snyder stopped paying RCE. According to Snyder, he stopped making payments because he discovered that MHS did not require payments to RCE. The testimony and evidence show Snyder did not communicate this to RCE. RCE continued to send invoices and follow up on outstanding invoices through Spring 2014. Snyder did not respond or object to these invoices.

Additionally, the evidence shows that Snyder and RCE exchanged numerous emails from 2012 through 2014 that reference the agreement between RCE and Snyder. Some of these emails were authored by Snyder and confirm the terms of the agreement between RCE and Snyder.

Some of these emails were sent by RCE to Snyder and contained descriptions of the agreement, invoices, comments on calculation of the consulting fee, and forwarding documents requested by Snyder to process payments. For example, RCE sent Snyder a W-9 at Snyder’s request in June 2012. Snyder requested the W-9 so he could process payment of RCE’s invoices. No emails entered into evidence show Snyder responding or objecting to any communications containing or references the terms of the agreement as set forth by RCE.

Conclusions

Based upon the testimony and evidence, the Court concludes as follows:

1. Under South Carolina law, a contract between two parties can be shown by written correspondence between the parties and no particular form of writing is required. Here, the invoices from RCE, checks from Snyder paying a majority of these invoices, and written correspondence between the parties shows that RCE and Snyder had a contract providing that Snyder would pay RCE a commission based on the percentage of NCPLUS's billings to MHS on the second contract. The evidence shows RCE and Snyder's contract provided that RCE would bill Snyder for amounts owed pursuant to the contract and that Snyder would pay the invoices consistent with the terms stated on the invoice.

2. Even if a written contract was not evidenced by the documents exchanged between RCE and Snyder, an oral commission agreement is enforceable under South Carolina law. The testimony and evidence reveals that the parties had an oral and written agreement for the payment of RCE's commissions. An oral contract is enforceable even if all of the essential terms are not expressed. Instead, the terms of the contract can be implied from the parties course of dealing. The course of dealing between RCE and Snyder shows the terms of the contract to be as alleged by RCE.

3. Similarly, evidence of a contract may be shown by the parties course of dealing. Here, RCE invoiced Snyder for commissions owed for "consulting services" for nearly two years on two separate contracts. Snyder paid twenty of the invoices before failing to pay the ninth and following invoices on the second contract. No evidence was presented that Snyder objected to the payments of the invoices or failed to understand what the invoices were for or why he was receiving them. Instead, the communications and correspondence between the parties show that

Snyder was aware of the essentials of the contract and the course of dealings between the parties confirms both parties' awareness of and agreement to the contract.

4. The testimony and evidence show that the consideration provided by RCE in exchange for commission payments was RCE's introduction of Snyder and NCSPLUS to MHS. As shown by the testimony and evidence, and particularly by the writings exchanged between the parties, Snyder and NCPLUS desired to take advantage of RCE's contacts in the healthcare industry, its relationship with key decisions-makers at potential customers, and RCE's knowledge of healthcare providers who were in need of services like those offered by NCSPLUS. The testimony and evidence shows that RCE was willing to assist NCSPLUS in exchange for the payment of commissions as described in the invoices. RCE provided an introduction to MHS in exchange for the payment of commissions.

5. Under South Carolina law, RCE as the plaintiff must prove its allegations by a preponderance of the evidence. The Court finds that RCE has met its burden and proven that Snyder breached his contract with RCE when he failed to pay RCE on its invoices. RCE has established a right to recover on the unpaid invoices. The unpaid invoices – Invoices #9-18 – contain ten charges for consulting fees at the agreed-upon amount of \$3250.00.

6. Snyder as the counterclaimant has the burden to prove the allegations contained in his counterclaim against RCE by a preponderance of the evidence. The Court finds that Snyder failed to meet his burden.

7. RCE sought prejudgment interest against Snyder. Under South Carolina law, prejudgment interest is to be awarded in all cases of accounts stated or where sums of money are ascertained and due. The Court finds that RCE is entitled to prejudgment interest on its outstanding invoices from the date payment was due on the invoice until judgment.

THEREFORE, IT IS ORDERED, that judgment shall be entered in favor of Revenue Cycle Enhancements, Inc., and against Eric D. Snyder, on the their respective claims and counterclaims and that judgment shall be entered in the principal amount of Thirty-Two Thousand Five Hundred and 00/100ths (\$32,500.00), plus prejudgment interest at the legal rate of 8.75% in the amount of Seven Thousand Three Hundred Forty-Three and 90/100ths (\$7,343.90) Dollars, for a total judgment of Thirty-Nine Thousand Eight Forty-Three and 90/100ths (\$39,843.90), with interest continuing to accrue thereon at the post-judgment interest rate.

AND IT IS SO ORDERED.

JUDGES SIGNATURE TO FOLLOW ON NEXT PAGE



Greenville Common Pleas

Case Caption: Revenue Cycle Enhancements Inc vs. Eric D Snyder , defendant, et al
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And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)