Claim No: SCT 486/2019

THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

In the name of His Highness Sheikh Mohammad Bin Rashid Al Maktoum, Ruler of Dubai

IN THE SMALL CLAIMS TRIBUNAL OF DIFC COURTS

BEFORE SCT JUDGE AND DEPUTY REGISTRAR AYESHA BIN KALBAN

BETWEEN

KRIVY LLP (DUBAI BRANCH)

Claimant

and

KRIN LIGHTING LLC

Defendant

Hearing : **26 November 2019**

Judgment : **10 December 2019**

JUDGMENT OF SCT JUDGE AND DEPUTY REGISTRAR AYESHA BIN KALBAN

UPON the Claim Form being filed on 16 October 2019

AND UPON a Consultation being held on 6 November 2019 before SCT Judge Delvin Sumo with the Claimant's representative and the Defendant's representative attending

AND UPON the parties failing to reach a settlement at the Consultation

AND UPON a Hearing being held on 26 November 2019 before SCT Judge and Deputy Registrar Ayesha Bin Kalban

AND UPON the Defendant failing to attend the hearing although served notice of the hearing date

AND PURSUANT TO Rule 53.61 of the DIFC Courts

AND UPON reviewing all documents and evidence submitted on the Court file

IT IS HEREBY ORDERED THAT:

1. The Defendant shall pay the Claimant a total sum of **AED 30,603.38.**

2. The Defendant shall pay the Claimant interest accruing at a rate of 2% per calendar month from the month of October 2019 to the date of full payment.

3. The Defendant shall pay the Claimant's Court fees in the amount of **AED 1,530.16.**

Issued by:

Ayesha Bin Kalban

SCT Judge and Deputy Registrar

Date of issue: 10 December 2019

At: 10am

THE REASONS

Parties

1. The Claimant is Krivy (Middle East) LLP (Dubai Branch), (the "Claimant"), a law firm providing legal services, located in Dubai.

2. The Defendant is Krin Lighting LLC (the "Defendant"), a company that provides lighting services, located in Dubai.

Preceding History

3. The Claimant filed its Claim Form on 16 October 2019, seeking payment from the Defendant of allegedly unpaid invoices in the amount of AED 28,701 as well as simple interest accruing at a monthly rate of 2% until date of payment (the "Claim"). It is submitted that the invoices relate to legal services provided by the Claimant to the Defendant, comprising of advice on matters relating to termination of employment under UAE law. The scope of work agreed upon between the parties is set out in the Letter of Engagement dated 2 May 2019 signed by both parties (the "LoE").

4. The matter was listed for a Consultation before SCT Judge Delvin Sumo on 6 November 2019, but the parties failed to reach settlement. A Hearing was then called before me on 26 November 2019, with the Claimant's representative in attendance and the Defendant absent though served notice of the hearing date.

5. Upon reviewing all documentation on the Court file, and in light of the Defendant's absence, I directed that this matter shall be reserved for judgment. The Defendant wrote to the SCT Registry on 27 November 2019 as follows:

> "We replied, acknowledged and instructed payment against justified and instructed invoice items.

We will send a copy of transfer of the amount previously communicated and stated.

Dear Sirs, Please update any further actions or rulings for us to respond action. We await confirmation of payment made is accepted against the evidence provided and without any additional justification received to verify the claimants invoice items where there are clear discrepancies contested or their claim`s since letter of engagement without prior instruction or consent.

Kruk,

Please take copy of paid Transfer and list for reference Paid amount for Court and defendant.

Total Agreed to Pay: 6,990.00 (Proceed with Payments) Kring" [sic]

6. I instructed the SCT Registry to inform the Defendant that I will be determining this matter on the papers based on the parties' submissions onto the Court file. As such, I hereby give my judgment.

The Claim

7. In summary, the Claimant's case is that the Defendant instructed the Claimant on matters of a UAE employment nature, and that this relationship commenced in April 2019. In respect of its services, the Claimant provided two invoices dated 31 May 2019 and 30 June 2019 to the Defendant. These invoices amounted to a total of AED 28,701.

8. As aforementioned, the parties signed the LoE on 2 May 2019, which set out the scope of work as well as the Claimant's fees which were to be calculated on an hourly basis and included a reference for standard hourly rates showing the charge rates for fee earning members of the Claimant's staff. The Terms of Business were appended to the LoE and set out detailed conditions governing the relationship between the two parties.

9. The Claimant submits that these invoices became due and payable within 30 days of the date of the invoices and that they remain unpaid by the Defendant to date, despite the services being carried out in full by the Claimant. It therefore claims the total amount of these invoices, as well as interest accruing at a rate of 2% per calendar month on the due amounts, in the amount AED 1,896.38 to the date of the filing of this Claim. The sum claimed by the Claimant as set out in the Claim Form is AED 30,603.38.

10. The Claimant further claims its legal and administrative costs of these proceedings.

11. The Claimant's more detailed submissions and evidence produced shall be considered in the discussion below.

The Defence

12. The Defendant's submissions on the Court file amount to a document filed under `Particulars of Claim' dated 29 October 2019. I am not aided by any oral submissions on behalf of the Defendant due to their failure to attend the Hearing in this Claim. As such, I have extracted some of its statements made in defence to this Claim from the Claimant's submissions as well as the correspondence received by the SCT Registry from the Defendant.

13. In respect of Invoice 1234 dated 31 May 2019, the Defendant denies that the sum of AED 20,181 is due to the Claimant, and states that this was introduced as `advice only' and that the Defendant did not initiate, request action to be taken by the Claimant, nor was the Defendant made aware of any charges. It contends that it did not instruct the Defendant on any of the items set out in the invoice.

14. In relation to Invoice 7891 dated 30 June 2019, the Defendant submits that it will not pay the Claimant for any services rendered by the Claimant before the signing of the LoE. It is submitted that this invoice includes services dating from 9 April 2019 and the Defendant argues that, as this date pre-dates the LoE, the Defendant must not be liable for this payment. In its submission dated 29 October 2019, the Defendant confirms that it accepts liability for partial payment of this invoice, in respect of work carried out after the signing of the LoE.

Discussion

15. As submitted by the Claimant in their submissions, the DIFC Courts have the jurisdiction to hear this matter, as per Clause 11 of the Terms of Business set out below:

> "11. Governing Law And Disputes
> In the event of a dispute arising between us, such dispute shall be subject to the exclusive jurisdiction of the Courts of the Dubai International Financial Centre.

16. In review of this Claim, I have determined that the Claimant is entitled to the full amount of the unpaid invoices, as well as the interest accrued

upon them. I briefly set out by reasons corresponding to each invoice below.

Invoice 1234 dated 31 May 2019

17. The Defendant denies that the sum of AED 20,181 is owed to the Claimant pursuant to this invoice based on its assertion that the requests made by the Defendant amounted to advice only, and that no actions taken out by the Claimant were instructed by the Defendant. In response to this, the Claimant has submitted substantive evidence in the form of correspondence supporting the amount set out in the invoice, and displaying the Defendant's awareness, participation and full approval of the instructions made to the Claimant. It is my understanding that the Defendant has had sight of this evidence, as they have been submitted onto the court file and, as provided by the Claimant within its written submissions, have been presented to the Defendant during the Consultation. The Defendant has not, in my view, submitted any evidence to the contrary and has not made any submissions in relation to this.

18. In an email to the Registry dated 6 November 2019, the Defendant, through its representative, submitted as follows:

"I had been contacted, also contacted several legal firms including Kreng to discuss and communicate potential case, where materials discussions and information was required, general standard practice we assume from experience of all discussions with firms, to allow any assessment, communication and recommendations prior to any instructed actions and engagement and agreement of actual chargeable actions and instructed requirements.

As with the legal discussions with several legal firms in the period to assess, describe and communicate details of the case prior to any instruction to proceed,

I had been contacted, attempted them fulfilled their requests to communicate details of the case prior to any confirmation and official receipt of instructions to

acknowledgement to proceed based on written or verbal instruction to proceed, with charged and Fee Based Actions instructed by myself.

Any correspondence from Kiru was categorically based on requests (Again as also requested and provided to other legal firms to asses and recommend prior to

Any formal appointment instruction, confirmed actions)." [sic]

19. I am satisfied with the evidence relied upon by the Claimant in support of this invoice, and note that even if the items set out in this invoice amounted to advice only, the Claimant would be entirely within its rights to charge for advice under the terms of the LoE. Additionally, in review of the correspondence submitted, it is clear that the Defendant had been actively instructing the Claimant, to the extent where it was providing comments to the Claimant's work. Therefore, it cannot be concluded that the Defendant did not provide any instructions to the Claimant, as the Defendant's conduct proves otherwise. Whether or not the Defendant had also made such `requests' to other firms does not have any standing in this matter, however, I do not believe that a firm would be acting unreasonably if it began charging a client for the services that the Defendant was requesting.

Invoice 789dated 30 June 2019

20. The Defendant contends that it does not owe the Claimant the sum of AED 8,526 in full, as it asserts that the Claimant should only be entitled to work carried out after the letter of engagement was signed.

21. In response to above, the Claimant submits that the nature of the works requested by the Defendant were urgent, and the expectation was that the Claimant would proceed to action these matters immediately. The Claimant did indeed carry out its services to the Defendant, despite there not being a signed agreement between them.

22. In support of its Further Particulars dated 18 November 2019, the Claimant has exhibited several email exchanges between both parties displaying the relationship between the parties and the services carried out by the Claimant.

23. I have examined the evidence provided by the Claimant and am of the view that the parties had entered into a valid agreement, despite failing to formalise such an agreement in written form. The Defendant's active participation and conduct demonstrate that the Defendant had already instructed the Claimant to act on its behalf, and it cannot be concluded that the Defendant would not have been charged for the services provided by the Claimant at a later stage. The very nature of the matter on which the Claimant was instructed is one of urgency and it is not uncommon in legal practice to begin acting for a client without completing standard client onboarding procedures.

24. I therefore reject the Defendant's arguments and order the payment of the invoices owed to the Claimant in the sum of AED 30,603.38, as well as simple interest accruing on a monthly basis at a rate of 2% from the month of October 2019 to the date of full payment.

25. The Defendant shall also pay the court fee to the Claimant in the amount of AED 1,530.16.

26. The Claimant's claim for its legal and administrative costs is denied, in line with Rule 53.70 of the Rules of the DIFC Courts.

Issued by:

Ayesha Bin Kalban

SCT Judge and Deputy Registrar

Date of issue: 10 December 2019

At: 10am