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 H.E. JUSTICE SHAMLAN AL SAWALEHI

BETWEEN

FIRENZE LIMITED

Claimant

and

FERNAO LLC

Defendant

Hearing:**14 July 2015**

Judgment:**26 August 2015**

JUDGMENT OF H.E. JUSTICE SHAMLAN AL SAWALEHI

UPON hearing the Claimant and the Defendant

AND UPON reading the submissions and evidence filed and recorded on the Court file

IT IS HEREBY ORDERED THAT:

1.The Claimant's Claim is rejected.

The Reasons:

2. The Claimant requested the Defendant to pay its due payment at the end of the Agency and Client agreements. The Defendant had refused to pay, which had led the Claimant to file this case before the Court.

3. No settlement was reached by the parties at the end of the consultation and, consequently, the case was sent for adjudication. On 14 July 2015 I heard both parties' submissions.

4. In the Claimant's Particulars of Claim, the Claimant argued that invoices to the value of AED 131,250 remain unpaid after several promises made by the Defendant upon the Claimant having fulfilled its side of the signed agreed Agency and Client Agreement, but the Defendant has not been responding to emails or communication with the aim of resolving the mater.

5. In its Defence, the Defendant argued that it had entered into an agreement with the Claimant on 5 May 2014 that consisted of two phases. In phase one, the Claimant undertook to provide the Defendant with 3 employees, but only 2 were provided. Then in phase two, the Claimant undertook to provide the Defendant with seven specialists, but only two were provided. Therefore, the Claimant had not fulfilled its duties under the agreement and had failed to perform its contractual obligations towards the Defendant which it considered to be a prima facie breach under the Law of Contract.

6. The Defendant argued further that sending the candidates' CVs to the Defendant did not entitle the Claimant to seek the Claim invoices for all the employees , and the outstanding invoices were only deemed payable in relation to the two employees that had signed a contract with the Defendant . According to the concluded agreement, the fees were only deemed payable when either an offer letter or employment contract had been signed by the candidate or a written agreement entered into between the two parties. Accordingly, the Claimant had no right whatsoever to invoice the Defendant for services that it had not provided.

7. In addition , the Defendant argued that it had made all due payments to the Claimant , as the Claimant had agreed to receive the final amount from the Defendant in the form of cheque No.001911 dated 24 February 2015 amounting to AED 91,350 ,as its full and final settlement for all dues outstanding until the end of February 2015 .

8. I have examined all submissions in this case, and I have observed that the Claimant relied on its alleged contractual rights in seeking fees without supporting its allegations with sufficient documents, and has failed to provide evidence that all of the candidates agreed upon were granted a contract with the Defendant, in order to entitle the Claimant to seek the Claim amount.

9. Then, I have found that the full and final Settlement payment letter dated 24 February 2015 was approved and signed by the Claimant's representative, and that the settlement amount was released by the Defendant and received by the Claimant on 25 February 2015.

10. For the above-cited reasons, I have rejected all the Claimant's claims.

Issued by:

Maha Al Mehairi

Judicial Officer

Date of Issue: 26 August 2015

At: 12pm