



Civil Resolution Tribunal

Date Issued: March 16, 2021

File: SC-2020-003658

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Zhang v. Liu*, 2021 BCCRT 286

B E T W E E N :

YAN ZHANG

APPLICANT

A N D :

RUI LIU also known as RENEE LIU and Rui Liu (Doing Business As Contessa Education)

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about referral and consulting fees. The applicant, Yan Zhang, says the respondent, Rui Liu also known as Renee Liu, who did business as Contessa Education, agreed to split profits 50/50 in 2019 for a university application business. Ms. Zhang claims \$2,000 for the referral and consulting fees she says Mrs. Liu owes her.

2. Mrs. Liu says Ms. Zhang acted as a referring agent for 2 students (not 3 as Ms. Zhang alleges), but at no time providing any consulting services to any of them. Mrs. Liu says the industry standard is 10% to 20% of profit for referral fees, and that there was never any agreement to a 50/50 split as alleged. Mrs. Liu also says Ms. Zhang was overpaid, but Mrs. Liu did not file a counterclaim.
3. I note there are 2 named respondents, Mrs. Liu and “Rui Liu (Doing Business as Contessa Education)”. Because as named Contessa Education is not a registered company, I find the two respondents are in fact just one person, Rui Liu. Given this, I find nothing turns on the fact that “Rui Liu (Doing Business As Contessa Education) did not file a separate Dispute Response from “Rui Liu also known as Renee Liu”.
4. The parties are each self-represented.

JURISDICTION AND PROCEDURE

5. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA states that the CRT’s mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness, and recognize any relationships between the dispute’s parties that will likely continue after the CRT process has ended.
6. Section 39 of the CRTA says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am able to assess and weigh the documentary evidence and submissions before me.
7. Section 42 of the CRTA says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

8. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

ISSUES

9. The issues in this dispute are:
 - a. What was the parties' agreement for compensation to Ms. Zhang for referral and consulting fees?
 - b. What referral and consulting services, if any, did Ms. Zhang provide?
 - c. What are the appropriate remedies, if any?

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant Ms. Zhang must prove her claims on a balance of probabilities. I have read all the evidence and submissions before me, but refer only to what I find relevant to provide context for my decision.
11. Ms. Zhang says she and Mrs. Liu started "the Canadian University Placement business" in 2018, with Mrs. Liu's business Contessa Education. The parties agree they had no written agreement. Ms. Zhang says the parties' verbal agreement would be that they would share profits 50/50, which Mrs. Liu denies. While verbal agreements are enforceable, they can be harder to prove than if they had been in writing.
12. Ms. Zhang says she introduced 3 students to Mrs. Liu: CZ, CX, and DL. Mrs. Liu says it was only CZ and CX. Apart from Ms. Zhang's bare assertion, I find there is no evidence she introduced DL such that she would be entitled to any compensation for DL.

13. Ms. Zhang also says she designed a service package that included a university placement service, IELTS (International English Language Testing) tutoring service, and common essay editing service. As discussed further below, Mrs. Liu denies Ms. Zhang provided consulting services.
14. Ms. Zhang says on May 14, 2019 that Mrs. Liu told her that she intended to stop the business and that Ms. Zhang's share was \$4,700 CAD in cash, plus the MacBook Air that Ms. Zhang undisputedly retained. The parties agree Mrs. Liu transferred a \$2,700 referral fee to Ms. Zhang that day. As noted, Mrs. Liu says this was referral fees for CZ and CX. Ms. Zhang alleges Mrs. Liu said she would transfer the \$2,000 claimed balance after Ms. Zhang returned from her trip overseas. Mrs. Liu denies she ever agreed to pay more than the \$2,700 and says that Ms. Zhang was overcompensated.
15. Ms. Zhang says the gross university placement income for the 3 students amounted to \$10,700, and that she was entitled to 50% of the profit. The parties agree Ms. Zhang has retained a MacBook Air computer worth \$1,051.25, which Ms. Zhang says was partial payment. Mrs. Liu says the \$2,700 referral fee amounted to 25.2% of the \$10,714 in revenue. Mrs. Liu argues the industry standard for a referral fee is 10 to 20% of profit, but that she calculated based on revenue in good faith. I am not prepared to rely on Mrs. Liu's submission of a screenshot of a google search showing 5% to 10% of revenue is a typical referral fee. However, what matters is whether Ms. Zhang has proved the parties agreed to higher compensation than the 25% of revenue that she admittedly received for CX and CZ. As noted above, Ms. Zhang says she was entitled to 50% of the revenue generated, and Mrs. Liu says there was no such agreement. In the circumstances, I find I am left with an evidentiary tie about whether there was a verbal 50/50 agreement or whether 25% was agreed, and so I find Ms. Zhang has not met the burden of proof. I also have no evidence that 25% was unreasonable.
16. Ms. Zhang did not clearly quantify her claim about the consulting services, since the claimed \$2,000 appears to refer to her 50/50 claim based on referral fees. In any event, for the following reasons I find Ms. Zhang has not proved she provided any

consulting services. Ms. Zhang says in December 2018 she sent Mrs. Liu a list of Canadian universities that offered paid internships for CX's university application, and she also gave Mrs. Liu some advice about applications to 2 different universities. Ms. Zhang further says on January 3, 2019 Mrs. Liu sent her CZ's common essay "for a discussion". However, there is no supporting evidence of this and in particular there is no essay from CZ in evidence nor any communication from Mrs. Liu enclosing it. I am not prepared to conclude based on Ms. Zhang's assertions alone that she provided consultation services or that her description of her efforts in December 2018 amount to an entitlement to compensation.

17. Mrs. Liu submitted a September 28, 2018 signed contract between Contessa Education and CX, written in Mandarin, along with her own English translation. Ms. Zhang does not deny she signed CX's contract as her guardian, and says she would not have signed it if she knew Contessa Education was "a fake company". The evidence shows Contessa Education Corp. is incorporated, but as noted above, Ms. Zhang did not name the corporation as a respondent. In any event, in the translation, it says "Contessa Education" will provide all the consulting services Ms. Zhang says she (Ms. Zhang) provided. Ms. Zhang says this contract is "fraud", but she does not dispute the accuracy of its English translation. Mrs. Liu submitted a similar contract and invoice for CZ. Mrs. Liu also provided copies of invoices from Contessa Communications Corp. (a corporation that is not a party to this dispute) to each of CX and CZ, for a "consulting fee" for the fall 2018 term. Notably, Ms. Zhang did not submit a statement from CX or CZ about any consulting services that Ms. Zhang says she provided. I find the above evidence favours Mrs. Liu's position that Ms. Zhang did not provide consulting services to either CX or CZ.

18. Ms. Zhang also relies on a WeChat exchange in Mandarin, which under a December 17, 2019 date there is a "2000" figure set out. Separately Ms. Zhang sets out a transcript for this exchange, except there she says it occurred on November 30, 2019. There is no explanation for the date discrepancy. Ms. Zhang says she wrote, "My share, there are still 2000 at your account", and alleges that Ms. Liu did "not deny" she owed the \$2,000. Based on Ms. Zhang's own interpretation, I am not prepared to

conclude these text messages mean Mrs. Liu owed Ms. Zhang \$2,000. Further, Mrs. Liu provided her own translation, which says the “2000” was Ms. Zhang asking, “After the allocation last time ... is there 2000 remaining in your account”, with a discussion about the closure of Mrs. Liu’s business bank account. In Mrs. Liu’s translation there is no mention of her agreement to pay Ms. Zhang a further \$2,000.

19. In the absence of independent translation, at most I am left with an evidentiary tie about whose English translation is correct. As Ms. Zhang bears the burden of proof as the applicant, I am unable to conclude her version is more likely than Mrs. Liu’s. I also note that the CRT’s rules require evidence to be submitted in English, and while the parties provided their own translations, given the conflict I cannot prefer one version over the other without more.
20. In summary, I find the weight of the evidence does not show Ms. Zhang provided consulting services. I also find the evidence does not support a conclusion that Ms. Zhang is entitled to any further payment than the \$2,700 she has already received for referral services. I find Ms. Zhang’s claims must be dismissed.
21. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. Ms. Zhang was unsuccessful and Mrs. Liu did not pay CRT fees, so I make no order about them.

ORDER

22. I order Ms. Zhang’s claims and this dispute dismissed.

Shelley Lopez, Vice Chair