



1 6. On January 1, 1998 Vicente ceased paying CIC for the services the corporation rendered for the  
2 Summer Holiday Suites.

3 7. At a board meeting, Vicente stated to some of the shareholders of CIC that upon his death each  
4 of the shareholders would receive a sum in the amount of \$25,000.

5 8. In 2000 the board of directors of CIC authorized Vicente to purchase a Mitsubishi Mirage 4 door  
6 sedan (License Plate No. ABT750). The car was registered to Vicente. The monthly payments for  
7 the vehicle were paid out of CIC's corporate funds.

8 9. An life insurance policy was taken out in Vicente's name in the amount of \$300,000. CIC was  
9 listed as the beneficiary of this policy and paid the monthly premiums.

10 10. After Vicente's death the proceeds from the policy were used to satisfy a debt of CIC, with the  
11 remaining balance returned to CIC.

12 11. CIC used these proceeds to pay off a number of outstanding debts owed.

13 12. CIC is claiming against the heirs of the estate for the \$25,000 per shareholder promise that  
14 Vicente made.

15 13. CIC is also claiming for payment for monthly services rendered for Summer Holiday Suites  
16 between 1998-2005.

17 14. CIC is claiming ownership of the Mitsubishi Mirage that was purchased in 2000.

#### 18 DISCUSSION OF CLAIMS

19 *The claim for \$25,000 per shareholder upon Vicente's death is denied.*

20 There are a variety of ways in which an oral assertion can become a contract. In the CNMI these  
21 include an oral contract, an oral will, and in some cases, promissory estoppel. The Court will  
22 discuss each of these in turn and explain why the \$25,000 per shareholder claim must fail. An oral  
23 contract must have three elements in order to be enforced: offer, acceptance, and consideration.  
24 Consideration can be very small so long as it is present. If there is no consideration then the oral  
25 assertion merely becomes a gratuitous promise which can not be enforced.<sup>1</sup> In the present situation,  
26 although there may have been an offer by Camacho and acceptance by CIC of the promise to pay

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28 <sup>1</sup> See *Isla Financial Services v. Sablan*, 2001 MP 7 ¶¶ 13 to 15.

1 \$25,000 there was no consideration. CIC already had a contract for the services they provided to  
2 Summer Holiday Suites. Without the essential bargained for consideration then his promise could  
3 not be binding. As the heirs note, Mr. Juan Camacho testified that the shareholders gave no return  
4 promise or consideration for the \$25,000 claim. The claimants state that they continued to provide  
5 services for the Summer Holiday Suites at no cost and that this was their consideration for Vicente's  
6 promise. This argument is unconvincing because the claimants already had an agreement  
7 memorializing the terms of their provision of services, that of \$650 per month. It is unreasonable  
8 to think that a \$25,000 promise is a reasonable exchange for \$650 a month. The enormity of the  
9 amount promised by Vicente should have alerted the shareholders that his claim was a bluff, as  
10 Tomas Camacho testified. As an oral contract this claim must fail as there was no bargained for  
11 consideration and so the Camacho estate is not bound by Vicente's promise.

12 An oral will is only valid if the person who is making it is in imminent peril of death and  
13 must then die as a result of that impending peril.<sup>2</sup> Other elements of a valid oral will include:  
14 declaration to two disinterested witnesses; submitted for probate within six months of the testator's  
15 death; may only distribute a total value of \$5,000; and it doesn't change or revoke an existing will.<sup>3</sup>  
16 The claim for \$25,000 must also fail under this analysis. Vicente was not in imminent death when  
17 he made the promise and so an oral will couldn't be made. Even if it could, the total value that could  
18 be received would be \$5,000 which is far less than what the claimants have asked for. The Camacho  
19 estate is not bound by an oral will.

20 Lastly some courts can enforce a verbal contract in instances of promissory estoppel.  
21 Promissory estoppel is typically an equitable relief so as to avoid injustice against one of the parties.  
22 A promissory estoppel situation typically arises when there is a verbal promise which is relied on  
23 by the other party to their detriment. Courts use the equitable solution of promissory estoppel to  
24 allow recovery as it would cause injustice if they did not. In this legal context the claimants are  
25 asserting that even if there was no contract the estate should be barred from denying the claim. The

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27 <sup>2</sup> 8 CMC § 2305 (a)

28 <sup>3</sup> 8 CMC § 2305

1 claimants state they performed according to the promise by cleaning the Summer Holiday Suites for  
2 seven years without being paid for. Therefore they relied on Vicente’s \$25,000 promise to their  
3 detriment and so the estate should be estopped from denying the \$25,000 claim. The Court finds this  
4 argument unpersuasive. While it is clear that claimants have suffered monetary loss for services  
5 rendered, they can not claim for the \$25,000. The appropriate claim to assert for this monetary loss  
6 is the monthly services reimbursement. Therefore the estate is not bound by the equitable tenets of  
7 promissory estoppel to pay the \$25,000 claim.

8 An additional reason the Court is denying this claim is because of the Statute of Frauds. The  
9 heirs are correct in their assertion that this promise, to be enforceable, must be in writing (as the  
10 agreement for services was). The Statute of Frauds invalidates a contract which by its terms can “not  
11 be performed during the lifetime of the promisor” unless there is a writing that memorializes the  
12 agreement.<sup>4</sup> This very clearly does not allow the \$25,000 claim to proceed. The agreement, by its  
13 very terms, required Vicente to die for its performance. As such, this verbal agreement fails to  
14 become a contract because it fails to satisfy the Statute of Frauds by being in writing. The June 1,  
15 1994 writing that memorializes the \$650 payment does indeed satisfy the Statute of Frauds, as the  
16 claimants assert. However their brief alludes to the fact that this may also be applied to save the  
17 \$25,000 claim. The Court rejects this contention. There is nothing in that document to suggest that  
18 Vicente intended to pay \$25,000 in exchange for the \$650 per month payment. The estate is not  
19 bound to pay the \$25,000 claim because it fails the Statute of Frauds.

20 *The claim for the 2001 Mitsubishi Mirage is denied.*

21 As the Court noted in the evidentiary hearing, in order for the claimants to retain the vehicle  
22 they would have to provide a significant amount of documentary evidence that Vicente intended the  
23 car to belong to the corporation. The car was registered to Vicente. As the heirs claim, the owner  
24 of a vehicle registers it,<sup>5</sup> and the proof of registration creates a prima facie presumption that the  
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27 <sup>4</sup>2 CMC § 4914

28 <sup>5</sup> See 9 CMC 2101 *et seq.*

1 registerer is the owner.<sup>6</sup> The evidence submitted by the claimants, which included receipts for car  
2 payments and insurance, was simply not sufficient to prove that Vicente intended that the car belong  
3 to the corporation. This is a murky situation because Vicente used the car, and Vicente was president  
4 and CEO of the corporation, but Vicente may also very well have used the car for personal reasons.  
5 Claimants provide no receipts for gas or repairs paid by the corporation. If this evidence were  
6 included the Court may have been swayed. However due to the insufficient proof that the car was  
7 intended for solely corporate purposes, the Court must deny the claim for the 2001 Mitsubishi  
8 Mirage. The estate does not have to grant the car to claimants as they have not provided enough  
9 documentary evidence to support their claim.

10 *The claim for the payment of monthly services in the amount of \$650 is granted.*

11         The Court believes that it would be unjust to deny the claim for the monthly service payment.  
12 Claimants, as shareholders in their close corporation, had foregone payment for 7 years. The  
13 evidence submitted states that this was due in large part to the respect and obedience to Vicente. In  
14 essence, Vicente acted as the family leader, and the shareholders as members of his family would  
15 not raise an objection. Their failure to raise an objection should not deprive them of money which  
16 was earned through seven years of unpaid services. Therefore the court will grant this claim. The  
17 calculation of all the months of unpaid services equals to \$58,175<sup>7</sup>, with additional interest in the  
18 amount of 12% pre judgment, and 9% post judgment..

19         The Court rejects the heirs argument that this claim is barred by the Statute of Limitations.  
20 It is true the claimants could have brought suit at any time, however according to their familial and  
21 cultural customs, this simply is not done. The heirs should not be allowed to unfairly benefit from  
22 the unpaid services that continued for seven years. CIC has every right to recover the monthly  
23 payment, because they fully performed their required activities in the contract. The heirs also assert  
24 that the insurance policy should be used to substitute payment for this debt. The Court also finds this

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26         <sup>6</sup>*Finbinker v. Mullins*, 532 A.2d 609, 613 (Del. Super. Ct. 1987).

27         <sup>7</sup> The Court arrived at this amount by taking the payment, \$650, and multiplying it by the number months that  
28 it was unpaid, 89.5 (as decedent died in the middle of June), which equaled to \$58,175. The formula was as follows \$650  
x 89.5 = \$58,175.

1 argument unpersuasive. As the record shows, the insurance policy was purchased for different  
2 purposes, and was not intended to pay for Vicente's owed debt for the monthly services. While it  
3 is true the corporation benefitted from the insurance proceeds, this bears little relation to whether  
4 the estate must reimburse the claimants for their services. Therefore the Court grants the claimants  
5 the reimbursement of the \$650 per month for the services they performed for Vicente from 1998-  
6 2005 plus interest.

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8 **CONCLUSION**

9 For the reasons stated the Court denies CIC's, claim for the \$25,000 per shareholder and  
10 Mitsubishi Mirage and grants the claim for the monthly services.

11 SIGNED this 5th day of February, 2008.

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14 /S/ \_\_\_\_\_  
15 JUAN T. LIZAMA, Associate Judge  
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