

1975 WL 29221 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 16, 1975

***1 RE: Authority of the Bicentennial Commission to contract.**

Mr. Bradley Morrow
Chairman
South Carolina American Revolutionary Bicentennial Commission
Post Office Box 1976
Columbia, SC 29202

Dear Mr. Morrow:

Recently, Mr. John Hills requested that I draft a standard contract for the disbursal of \$100,000 to the Regional Planning Counsels for use in promoting the Bicentennial Celebration. In drafting the contract, I wanted to cite the legislation authorizing the Commission to contract.

Act No. 611, 57 STAT. 1131 (1971), which creates the American Revolution Bicentennial Commission of South Carolina provides, in part:

There is hereby created a South Carolina American Revolution Bicentennial Commission, to be known as 'The Spirit of 1776 Commission,' which shall have the authority and responsibility to plan and execute, insofar as authorized and funded by the General Assembly, . . . (Emphasis added)

A check of the Acts and Joint Resolutions reveals that the Commission has not been given the blanket authority to enter into contracts. The Commission has been authorized to offer for sale a commemorative tag or license plate, authorization which necessarily includes the ability to contract for the manufacturing of such plates. Act No. 1136, 58 STAT. 2403 at 2587 (1974).

Furthermore, by Act No. 516, 58 STAT. 882 (1974), the Commission is authorized to . . . give its permission to any person to use, reproduce or simulate the logogram . . . The permission shall be in writing. The commission may establish a schedule of fees for use, reproduction or simulation of the logogram.

Act No. 516 has the effect of authorizing the Commission to enter into contracts in a matter dealing with the reproduction, use or simulation of the logogram.

There being no other acts authorizing the Commission to enter into contracts, it seems that contracts now entered into which do not deal with license tags or the logogram are the products of ultra vires actions. The Commission members may be individually liable on such contracts. It seems, therefore, that curative legislation is in order to ratify existing contracts and to authorize the Commission to contract.

If there are any questions regarding this matter prior to January 26, 1975, please contact Mr. Richard Kale of the Office, in that I will be out of State until then.

Yours very truly,

N. Elizabeth Crum

Assistant Attorney General

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