

Ruling gives Jazz Fest rebate

Ticket intermediary must pay it back

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A state court judge has ruled that a company accused of improperly collecting revenue from the sale of tickets to the New Orleans Jazz and Heritage Festival over a three-year period should pay the foundation that runs the annual event nearly \$70,000.

In a decision issued June 5, Civil District Court Judge Madeline Landrieu wrote that Karlton Kirksey and Kirksey Enterprises, Inc., a company for which Kirksey was the sole proprietor, should not have collected \$69,802 in "rebate revenue" generated from the sales of Jazz Fest tickets in 2001, 2002 and 2003.

"We're very pleased," said Randall Smith, an attorney for the foundation. "It's been a five-year legal battle."

Kirksey Enterprises was hired by the New Orleans Jazz and Heritage Foundation Inc. for four years beginning in 2000 to work as an intermediary between the foundation and Ticketmaster to sell tickets for Jazz Fest and post-festival concerts. Under the arrangement, the foundation collected the face value of each ticket sold. Ticketmaster hauled in the convenience charge it attached to each ticket, and Kirksey Enterprises was paid a fee by the foundation for its services.

At issue, however, was the rebate revenue, a percentage of the convenience charge Ticketmaster collects and sometimes gives back to event producers.

The foundation argued that it was entitled to that money as the event producer, but Kirksey Enterprises argued that it was customary that the money go to the company acting as the box office servicing company.

In her decision, Landrieu found that the foundation, and not Kirksey Enterprises, was entitled to any rebate revenue issued by Ticketmaster in 2001, 2002 and 2003 because it had a direct contract with Ticketmaster in those years. Landrieu did not agree, however, that the foundation was due rebate revenue collected by Kirksey from Ticketmaster in 2000 because only Kirksey had a direct contract with the company then.

"The most reasonable interpretation of these contracts is that as of Jazz Fest 2001, the Foundation had the right to the rebate revenue pursuant to its contract with Ticketmaster," Landrieu wrote.

The decision also calls for Kirksey to pay all legal costs and to pay interest on the amount due until it is paid.

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