

## Contracts: Do you need one?

Each quarter, based on the questions it receives and the issues that it is asked to consider, the ICAS Ethics Committee will publish a short article in this space that addresses an issue related to ethics and professional conduct within the air show community. The discussion is intended to familiarize the membership with the kinds of problems and issues with which the Ethics Committee wrestles from time to time, but also to encourage members to think themselves about decisions, discussions and actions that may have ethical issues that they would not normally consider.

**T**he short answer is yes. A strongly worded yes. A solid yes. A hearty yes. In short, yes, YES and YES.

Almost every issue that comes before the Ethics Committee could have been easily solved with a contract. Which would have saved a lot of work, time and angst for the parties involved with the dispute, the Ethics Committee and – on occasion – the ICAS Board.

Many friendships have ended and many people have been out of pocket for conflicts that were caused by both parties not having a written agreement on who would do what when.

Asking for a contract is not the act of a distrusting person; it is the act of a professional person who is mostly interested in avoiding disagreements in the aftermath of an event.

In the air show industry, our members discuss and decide on thousands of items when planning a show, planning to perform at a show, or planning to support a show with some other service. How can we be expected to clearly remember item #467 we discussed on the ICAS Convention exhibit hall floor or during one of the 21 calls made on a particular winter day with people we are working with next summer?

The fact is we cannot (well, most of us cannot; some can and that makes the rest of us very jealous). If those items are all covered in a brief written document (email,




letter, contract) that we can refer back to, it makes it much simpler and less contentious when disagreements occur. Instead of one party feeling taken advantage of or put upon, both parties walk away knowing they did what they agreed to.

Another peculiarity of our business is the amount of money these items can represent. You hire a performer who flies a Pitts Model 12. You see this as an agreement covering less than \$10,000. Not that big a deal. But there is a clause in the agreement that, if the aircraft is damaged, the show will pay to repair it. Now, potentially, it's a \$200,000 contract.

How difficult is it to send an email and ask for confirmation of the items we discussed and decided today?

Here are some hypothetical examples of occasions when someone should have had a contract, but didn't:

- You are a volunteer photographer; you agree to take pictures of planes and people at an air show on behalf of the producer. You talk to the event organizers and they promise you a hotel room for the weekend and access to the entire site in exchange for access to all the photos you take during the weekend.
  - Two weeks later, you find out that the hotel room has been charged to the credit card you gave for incidental expenses. The event organizer you spoke to is no longer involved and the new person will not pay for your room because you don't have an agreement.
  - A year later, one of the photos you took that weekend is published and you are paid by the

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publication. The show takes you to court stating they own the photo.

- You are an air boss. You verbally agree with the event organizer that you will be paid x amount in exchange for air boss services. You discuss what those services are. You arrive at the site on Thursday before the show and no-one has applied for a TFR or waiver.
  - Was this your job, as the producer states? Was this the show's job, as you state? Show now refuses to pay you. Who is at fault?
- You are a performer and you meet during the ICAS Convention with an event organizer of a first-time, small show. You discuss in detail who pays for what (rooms, cars, fuel, smoke oil, etc.). You send them a contract; they never return it. You arrive without a contract to fly the show and quickly find out you must supply a credit card for fuel, smoke oil, rooms and hangar space. Producer says they don't have any memory of talking about these things at ICAS.
- You are an announcer and – during the ICAS Convention in early December – you are secured to do a show the next summer. You have other potential bookings for the same time which you now turn down. In January, you send the show a contract that requires a deposit. You ask about the deposit and contract every month after and the producer tells you they are working on it. Thirty days before the show, it is cancelled due to a natural disaster (a common one in this part of the world, affects one in every three or four shows). You are a nice person and you know the producer has just lost a lot of money. So, you tell them to forget it and you can just re-engage for their next show. Fast forward two years and the exact same thing happens. Only this time, they

tell you they are waiting for sponsorship money before they pay deposits or sign contracts. You agree to wait and -- once again -- 20 days before the show, it is cancelled. They won't pay you a deposit and you have no contract which states they will.

A contract does not have to be complicated; it just needs to say who the parties are and what each parties' responsibilities will be. In any of the examples above, a simple one- or two-page agreement spelling out each person's responsibilities would likely have been enough to solve the issue.

Disagreements don't always come about from deceit; sometimes, it is a simple difference in the interpretation of what was agreed, or a different recollection of what was agreed. In any case, a document spelling out those details nearly always resolves that difference of opinion.

Contracts don't solve all issues, but they do solve the vast majority. Then there are those, even in our business, who will purposefully take advantage of a naïve person who will provide them a service without a contract or written agreement. They are rare, but they are out there, even in our little air show world.

A contract does not have to be a document created by or vetted by an attorney. Sometimes, there's enough money involved that you should involve a lawyer, but not always. A contract can be as simple as;

*On August 20, 2022 Bruce Wayne (BW) and Diana Prince (DP) agree to the following:*

*On September 20, 2022 BW will pick up DP at the Gotham City Airport from her flight from Metropolis. BW will drive DP the Hall of Justice. DP will fill BW's car with fuel at the end of the drive as close to the drop off point as possible.*



Or...

On August 20, 2022, the Small Town Air Show 2022 (show) and Steve Rogers (SR) agree to the following:

- Show will:
  - Provide SR with access credentials so that SR can go anywhere on the show site, except the aerobatic box, to take photos;
  - Provide one non-smoking hotel room from Thursday, September 15 to Sunday, September 18, 2022 for the exclusive use of SR; and
  - Provide SR with one rental car, pick up Thursday, September 15 and drop off Sunday, September 18, 2022.
- SR will:
  - Provide electronic copies off all photos taken by SR during the show; and

- Allow the show full rights of ownership of the photos.
- Note: SR may also use any and all photos taken at the show for any purpose including for remuneration.

The value of the transaction in the items above is relatively small. As the value of the services and/or the value of the payment or “in kind” compensation goes up or the risk of loss goes up (i.e. I don’t have hangar space, but -- if your plane is damaged -- I will pay for it, then there is a hailstorm), the agreement should also be written more carefully to cover all possible eventualities.

We are not saying that you can’t go to your friends show, who you have known for years and trust completely, without a contract. What we are saying is that if you choose to do so, and things don’t go as you expected they would, **you have no one to blame but yourself!** ✈️

*Note: The comments and suggestions made here are not intended as legal advice. Neither ICAS nor the ICAS Ethics Committee are providing these examples as examples of language or approaches that you can or should take verbatim. Rather, we are using these examples to explain why and how an agreement between parties need not be lengthy or complicated.*