

MEMORANDUM

TO: Lawyering Skills I students
FROM: Professor David E. Sorkin
DATE: February 26, 2004
RE: Elevator

We represent Elevator, a nightclub located on Chicago's northwest side. Tom Hamill is the manager of the club, and Pump is its house band. The members of the band are all full-time employees of Elevator. When the band is not performing or rehearsing, its members tend bar or work in other positions at the club.

Steve Taylor lives in an apartment in Niles, a suburb just north of Chicago. He moved to the area in early December and signed a one-year lease on his apartment. Last summer Taylor and Hamill met each other at a music festival in Nashville. At the time Taylor was living in Atlanta, where he worked as a network administrator for a large law firm (at an annual salary of \$35,000) and played in a local band in his spare time. Hamill mentioned to Taylor that Elevator was looking to hire another musician for Pump. Hamill and Taylor exchanged several telephone calls over the next couple of months, and on October 15 Hamill offered Taylor a full-time position at Elevator as a musician and bartender. The position paid an annual salary of \$40,000, with opportunities for additional pay based upon the number of hours worked. In addition, the club would reimburse up to \$5,000 in moving expenses. Taylor accepted the offer by signing it and faxing it back to Hamill on October 16. He resigned from his position at the law firm effective November 21, and made preparations to move to the Chicago area.

When Taylor showed up for work at Elevator on December 8, the starting date that he and Hamill had agreed upon, he found that there was no longer a position waiting for him. Elevator had instead hired Joe Cramer, Tom Hamill's nephew, as the new lead guitarist for Pump, and Hamill told Taylor that Elevator had more bartenders than it needed. He apologized to Taylor for not telling him sooner, and said that Elevator would be willing to reimburse part of Taylor's moving expenses as a goodwill gesture. Taylor stormed out of the club without responding, and began looking for other musical and bartending jobs.

Taylor finally landed a part-time bartending gig at Bobo's, a neighborhood tavern in the near western suburbs. His weekly income from that position is only about \$300, however, and he is considering leaving Chicago, even if that requires him to break his lease, since he has been unable to find a better job here.

We are concerned about Elevator's potential liability to Steve Taylor for withdrawing its job offer. The legal theories that appear to be of primary concern include breach of contract, promissory estoppel, and fraudulent misrepresentation. Please write a memorandum addressing the questions of breach of contract and fraudulent misrepresentation. Another law clerk is examining the promissory estoppel question, so you should not address that in your memorandum. Also, limit your analysis to the question of whether Taylor has a viable claim against Elevator based upon either or both of these theories; do not consider the measure of damages that might be available.