1	EDNA GARCIA EARLEY, Bar No. 195661 STATE OF CALIFORNIA					
2	DEPARTMENT OF INDUSTRIAL RELATIONS DIVISION OF LABOR STANDARDS ENFORCEMENT					
3	320 W. 4th Street, Suite 430 Los Angeles, California 90013	· · · · · · · · · · · · · · · · · · ·				
4	Los Angeles, California 90013 Telephone: (213) 897-1511 Facsimile: (213) 897-2877					
5	Attorney for the Labor Commissioner					
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8 9	BEFORE THE LABOR COMMISSIONER OF THE STATE OF CALIFORNIA					
10	OF THE STAT					
10	SHANNON S. BOTTS for DAVID	CASE NO. TAC 27708				
12	BOTTS, a minor,	DETERMINATION OF				
13		CONTROVERSY				
14	Petitioner,					
15	VS.					
16						
17	JET SET WORLD, LLC; JET SET ENTERPRISES, LLC,					
- 18	Respondents.					
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20	The above-captioned matter a	a Petition to Determine Controversy under				
21	*	r hearing on August 23, 2012 in Los Angeles,				
22		for the Labor Commissioner assigned to hear				
23		for DAVID BOTTS, a minor, appeared in pro				
24	per. Respondents JET SET WORLD, LLC and JET SET ENTERPRISES, LLC were properly served with the Petition but failed to appear. Based on the evidence presented at this hearing and on the other papers on					
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27	file in this matter, the Labor Commissioner hereby adopts the following decision:					
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1	FINDINGS OF FACT		
2	1. Petitioner SHANNON S. BOTTS (hereinafter, "Petitioner"), is the		
3	mother of minor, DAVID BOTTS and files this petition on his behalf.		
4	2. Respondent JET SET ENTERPRISES, LLC was a licensed talent		
5	agency until September 1, 2011 operating under Talent Agency license number 105270. ¹		
6	Respondent JET SET WORLD, LLC has been licensed since January 14, 2011 and is		
7	currently licensed under Talent Agency license number 125972.		
8	3. In November 2011, Petitioner agreed to have Respondents JET SET		
9	ENTERPRISES, LLC and JET SET WORLD, LLC, (hereinafter, collectively referred to		
10	as "Respondents") act as a talent agent for her minor son.		
11	4. On November 10 and 11, 2011, Petitioner's minor son, DAVID		
12	BOTTS, performed work as a model for The Children's Place earning \$300.00 on the first		
13	day and \$770.00 on the second day for total earnings in the amount of \$1,070.00.		
14	5. Petitioner provided a copy of her written contract with Respondents		
15	dated November 17, 2011 and granting Respondents the authority to collect and receive		
16	all sums payable to her minor son, DAVID BOTTS.		
17	6. Petitioner testified that she has not received payment for her son for		
18	the November 10-11, 2011 print job he performed for The Children's Place despite		
19	learning that payments were made to Respondents by The Children's Place approximately		
20	1 month after her son completed the two-day job. Petitioner also testified that she called		
21	and emailed Respondents numerous times to inquire about the payments, to no avail.		
22	Petitioner provided copies of emails sent to Respondents.		
23	7. Petitioner filed the instant Petition to Determine Controversy on June		
24	28, 2012 seeking a total of \$1,070.00 for the print job that her minor son performed on		
25	November 10-11, 2011 for <i>The Children's Place</i> for which he has not been paid.		
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27	¹ The evidence established that licensed talent agency JET SET ENTERPRISES, LLC also operates as JET		
28	SET WORLD, LLC with the same principals and location. Absent any evidence to the contrary, for purposes of this petition, they will be treated as the same entity.		
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#	DETERMINATION OF CONTROVERSY – TAC 27708		

1	LEGAL ANALYSIS				
2	1. Minor, DAVID BOTTS is a model and therefore, is an "artist" within				
3	the meaning of Labor Code §1700.4(b).				
4	2. Respondents are a licensed talent agency. Labor Code §1700.25(a)				
5	provides:				
6	(a) A licensee who receives any neument of funds on				
7	(a) A licensee who receives any payment of funds on behalf of an artist shall immediately deposit that				
. 8	amount in a trust fund account maintained by him or her in a bank or other recognized depository. The				
9	funds, less the licensee's commission, shall be				
10	disbursed to the artist <u>within 30 days after receipt</u> . However, notwithstanding the preceding sentence, the				
11	licensee may retain the funds beyond 30 days of receipt				
12	in either the following circumstances:				
13	(1) To the extent necessary to offset an obligation of the artist to the talent agency that is				
. 14	then due and owing.				
15	(2) When the funds are the subject of a				
16	controversy pending before the Labor Commissioner under Section 1700.44				
17-	concerning a fee alleged to be owed by the artist				
. 18	to the licensee.				
19	The evidence presented establishes that Respondents received payment totaling \$1,070,00 for the two-day print job performed by minor DAVID BOTTS on November				
20	\$1,070.00 for the two-day print job performed by minor DAVID BOTTS on November				
21	10-11, 2011 for <i>The Children's Place</i> and failed to turn said payment over to Petitioner				
22 ⁺	SHANNON S. BOTTS on behalf of her minor son, DAVID BOTTS.				
23	3. Labor Code §1700.25(e) provides:				
24	If the Labor Commissioner finds, in proceedings under Section 1700.44, that the licensee's failure to disburse				
25	funds to an artist within the time required by				
26	subdivision (a) was a willful violation, the Labor Commissioner may, in addition to other relief under				
27	Section 1700.44, order the following:				
28	(1) Award reasonable attorney's fees to the				
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(2) Award interest to the prevailing artist on the funds wrongfully withheld at the rate of 10 percent per annum during the period of the violation.

Respondents' failure to pay Petitioner the outstanding monies owed constitutes a willful violation under Labor Code §1700.25(e). Respondents have failed to pay the amount owed to date. Accordingly, we award Petitioner \$1,070.00 plus \$76.22 in interest (calculated at 10 percent per annum from January 11, 2012² to the present) for a total award of \$1,146.22.

<u>ORDER</u>

For the foregoing reasons, Petitioner SHANNON S. BOTTS on behalf of minor, DAVID BOTTS, is entitled to collect \$1,146.22 from Respondents JET SET ENTERPRISES, LLC and JET SET WORLD, LLC.

DATED: October 2, 2012

Respectfully submitted, FULD Bv: EDN

Attorneys for the Labor Commissioner

ADOPTED AS THE DETERMINATION OF THE LABOR COMMISSIONER

By:

Dated: October 2, 2012

IE A. SU State Labor Commissioner

² December 11, 2011 is the approximate date Respondents should have received payment from *The Children's Place*. Respondents then had 30 days (until January 11, 2012 under Labor Code §1700.25(a) to turn over the earnings to Petitioner. Interest is therefore calculated from January 11, 2012 to the date of this decision, September 27, 2012.

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