

1 STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
2 DIVISION OF LABOR STANDARDS ENFORCEMENT
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8 DIVISION OF LABOR STANDARDS ENFORCEMENT

9 DEPARTMENT OF INDUSTRIAL RELATIONS

10 STATE OF CALIFORNIA

11
12 JUDE SALAZAR, an individual,

13 *Petitioner,*

14 v.

15 DIANE PARDOE and SARAH PARDOE,
16 individually, and doing business as IRIS
TALENT MANAGEMENT,

17 *Respondents.*
18

Case No.: TAC - 52862

DETERMINATION OF CONTROVERSY

Hearing Date: February 15, 2023

Time: 1:00pm

19
20 On February 15, 2023, a Petition to Determine Controversy under Labor Code section 1700.44
21 in the above-captioned matter came before the undersigned attorney for the Labor Commissioner
22 assigned to hear this case. Petitioner Jude Salazar, an individual (hereinafter, referred to as “Salazar”
23 or “Petitioner”) appeared in pro per. Respondents Diane Pardoe and Sarah Pardoe, individually and
24 doing business as Iris Talent Management (hereinafter, referred to as “Respondents” or “Iris Talent”)
25 were represented by non-attorney representative Rick Siegel. Salazar and Taylor Trumbo, Salazar’s
26 commercial agent, provided testimony under oath.

27 The matter was taken under submission. Based on the evidence and argument presented at the
28 hearing and the briefs filed, the Labor Commissioner hereby adopts the following decision.

I. FINDINGS OF FACT

1
2 1. This case arises out of a dispute between an actor, Jude Salazar, and her managers,
3 Diane Pardoe and Sarah Pardoe, doing business as Iris Talent Management (hereinafter Iris Talent or
4 Respondents). Salazar alleges that Iris Talent acted as an unlicensed talent agency.

5 2. On June 26, 2021, Salazar and Iris Talent entered into a Personal Management
6 Agreement. The term of the agreement was for one year. The contract required that Salazar pay “15%
7 of acting jobs that have been procured by Iris and 10% that have been procured by an agent or myself.”

8 3. During the period of the contract, Salazar was represented by Taylor Trumbo of Evolve
9 Artists Agency, a licensed talent agent focusing on obtaining acting bookings in commercials.

10 4. According to Iris Talent’s briefing papers, throughout the course of the contract with
11 Salazar, Iris Talent “reach[ed] out to casting directors, producers, and other talent buyers” for Salazar.
12 “In short, the Pardoe’s and Iris Talent procured for the Petitioner’s benefit, the very reason Petitioner
13 hired them.” During the hearing, Iris Talent reiterated that a fundamental purpose of their contract was
14 to procure work for Salazar.

15 5. Iris Talent’s course of conduct confirmed its admission that it worked to obtain booking
16 for Salazar.

17 6. In August 2021, Diane Pardoe noted in a text message to Salazar that Salazar was on
18 “avail” for an IHOP television commercial and provided the booking info sheet. In an email to Salazar
19 on August 5, 2021, Diane Pardoe wrote to Salazar: “Since this booking is through us, please put our
20 name and contact information as your agency/representation on all booking forms.” Because it had
21 procured the work, Iris Talent took a 15% commission on this booking.

22 7. In December 2021, Iris Talent submitted Salazar’s audition tape for a national TJ Maxx
23 commercial. On December 14, 2021, Sarah Pardoe confirmed Salazar’s availability for the shoot. On
24 December 20, 2021, Sarah Pardoe texted Salazar: “So excited this one came through!! This was the
25 one we got you!” Iris Talent took a 15% commission on this booking.

26 8. Text messages and emails provided similarly show that Iris Talent submitted Salazar
27 for booked commercials with Mountain Dew and Curateur and subsequently took a 15% commission.
28

1 **A. Whether Respondent procured entertainment engagements without a talent agency license**
2 **under the Talent Agencies Act (the Act)?**

3 The first issue is whether, based on the evidence presented at this hearing, Respondents
4 operated as a “talent agency” within the meaning of Labor Code section 1700.4(a). Based on the
5 evidence and testimony presented at hearing as well as Respondents’ admissions, Respondents acted
6 as an unlicensed Talent Agency by procuring bookings for Salazar.

7 Labor Code section 1700.4(a) defines “talent agency” as:

8 “a person or corporation who engages in the occupation of procuring,
9 offering, promising, or attempting to procure employment or
10 engagements for an artist or artists.”

11 The term “procure,” as used in this statute, means to get possession of: obtain, acquire, to cause
12 to happen or be done: bring about.” *Wachs v. Curry*, 13 Cal.App.4th 616, 628 (1993), *abrogated on*
13 *other grounds as recognized by Marathon*, 42 Cal. 4th at 987. Thus, “procuring employment” under
14 the statute includes attempting to attain employment on behalf of an artist, negotiating for
15 employment, sending an artist’s work to prospective employers, and entering into discussions
16 regarding employment contractual terms with a prospective employer.

17 Labor Code section 1700.5 provides that “[n]o person shall engage in or carry on the
18 occupation of a talent agency without first procuring a license therefor from the Labor Commissioner.”
19 In *Waisbren v. Peppercorn Production, Inc.*, 41 Cal.App.4th 246 (1995), the court held that any single
20 act of procuring employment subjects the agent to the Talent Agencies Act’s licensing requirements,
21 thereby upholding the Labor Commissioner’s longstanding interpretation that a license is required for
22 any procurement activities, no matter how incidental such activities are to the agent’s business as a
23 whole.

24 In contrast, a person may counsel and direct artists in the development of their professional
25 careers, or otherwise “manage” artists – while avoiding any procurement activity (procuring,
26 promising, offering, or attempting to procure artistic employment of engagements) – without the need
27 for a talent agency license. In addition, such person may procure non-artistic employment or
28 engagements for the artist, without the need for a license. *Styne v. Stevens*, 26 Cal.4th 42 (2001).

1 It is undisputed that Salazar is an artist, Iris Talent lacked a talent agency license from the
2 Labor Commissioner, and Iris Talent nonetheless procured work for Salazar. Iris Talent repeatedly
3 and continuously submitted Salazar for bookings, listed itself as the agent/representative for Salazar,
4 and collected a higher 15% fee for its own bookings, including the IHOP, Mountain Dew, TJ Maxx,
5 and Curateur bookings. Iris Talent does not claim—and there is no evidence to support—that Iris
6 Talent met the safe harbor of Labor Code Section 1700.44(d) by acting “in conjunction with, and at
7 the request of, a licensed talent agency in the negotiation of an employment contract.” Indeed,
8 Trumbo’s testimony indicated that Iris Talent often did not keep her informed of Iris Talent’s
9 procurement activities for Salazar, much less acted at Trumbo’s request.

10
11 **B. Whether the Labor Commissioner may award any remedy to an artist for a manager’s**
12 **unlicensed procurement of work, including voiding the contract *ab initio* or severing the**
13 **offending practices?**

14 Respondents’ principal argument is that because the Talent Agencies Act lacks an explicit
15 remedy for unlicensed procurement by a manager, the Labor Commissioner cannot void or sever the
16 contract. Correspondingly, they argue, the Labor Commissioner must uphold the contract.

17 Binding precedent clearly rejects this interpretation. In *Marathon Entertainment, Inc. v. Blasi*,
18 42 Cal.4th 974 (2008), the California Supreme Court addressed remedies available for unlicensed
19 procurement under the Act. The Act, the Court noted, “defines conduct, and hence contractual
20 relations, that are illegal: An unlicensed talent agency may not contract with talent to provide
21 procurement services.” *Id.* at 991. Absent remedies in the Act itself, the Court looked to the Civil
22 Code, which contains remedies for unlawful contracts. *See id.* & n.9 (citing Civil Code Sections 1598
23 and 1599 describing rules for voiding a contract in full and severability respectively). The Court held
24 that when a manager acts as an unlicensed talent agent, the contract between management and talent
25 could be declared fully void or be severed. *Id.* at 996; *see also Buchwald v. Superior Ct*, 254 Cal. App.
26 2d 347, 351 (Ct. App. 1967) (interpreting the Act’s predecessor to cover manager’s and allowing the
27 remedy of voiding contracts). As Respondents acknowledge, California courts for half a century have
28

1 found that a contract could be voided based on unlawful actions by an unlicensed talent agent. *See*
2 *generally Buchwald*, 254 Cal. App. 2d 347.

3 In response, Respondents claim that *Buchwald* was “judicial error” because the *Buchwald*
4 appellate court misinterpreted previous California Supreme Court authority barring courts or
5 administrative agencies from voiding contracts without specific statutory remedies. At the outset, this
6 argument ignores the 2008 *Marathon* decision in which, as explained above, the California Supreme
7 Court unmistakably held that remedies from the Civil Code applied to unlawful contracts under the
8 Act.¹ In doing so, the Court reaffirmed that talent could enforce remedies for unlawful procurement
9 under the Act. Moreover, Respondents’ position contradicts basic rule of law. The Labor
10 Commissioner cannot ignore fifty years of binding precedent even if she believed that a binding court
11 incorrectly analyzed previous precedent.

12 Finally, Respondents’ position undermines the clear Legislative intent of the Talent Agencies
13 Act as interpreted by the California Supreme Court. “The Act establishes its scope through a
14 functional, not a titular, definition. It regulates *conduct*, not labels; it is the act of procuring (or
15 soliciting), not the title of one’s business, that qualifies one as a talent agency and subjects one to the
16 Act’s licensure and related requirements.” *Id.* (emphasis in original). Applying this understanding, the
17 *Marathon* Court confirmed “a personal manager who solicits or procures employment for his
18 artist-client is subject to and must abide by the Act.” *Id.* at 986. By regulating this conduct, the
19 Legislature acted on its concern that “those representing aspiring artists might take advantage of them,
20 whether by concealing conflicts of interest when agents split fees with the venues where they booked
21 their clients, or by sending clients to houses of ill-repute under the guise of providing ‘employment
22 opportunities.’” *Id.* at 984. As the Court recognized, these dangers do not diminish simply because a
23 representative labels themselves a “manager” rather than an “agent” when procuring work. Consistent
24 with the Labor Commissioner’s previous views and fifty years of binding precedent, we reject
25 Respondents’ attempted end-run around the Talent Agencies Act.

26 ¹ Respondents in their papers and in their presentation at hearing emphasized the *Marathon* court’s
27 statement that “[t]he Act is silent—completely silent—on the subject of the proper remedy for illegal
28 procurement.” *Marathon*, 42 Cal. 4th at 991. Respondents, however, ignore the subsequent paragraphs
applying Civil Code remedies for voiding the contract as a whole or severing the contract to contracts
including unlawful procurement.

1 **C. If Respondents violated the Act, is the appropriate remedy to void the entire contracts ab**
2 **initio, or sever the offending practices under the principles articulated in *Marathon***
3 ***Entertainment, Inc. v. Blasi*, 42 Cal.4th 974 (2008)?**

4 Generally, an agreement that violates the licensing requirements of the Talent Agencies Act is
5 illegal and unenforceable. “Since the clear object of the Act it to prevent improper persons from
6 becoming [talent agents] and to regulate such activity for the protection of the public, a contract
7 between and unlicensed [agent] and an artist is void.” *Buchwald*, 254 Cal. App 2d at 351.

8 However, in *Marathon*, the Supreme Court held that a violation of the Talent Agencies Act
9 does not automatically require invalidation of the entire contract. The Court explained that the Act
10 does not prohibit application of the equitable doctrine of severability and that therefore, in appropriate
11 cases, a court is authorized to sever the illegal parts of a contract from the legal ones and enforce the
12 parts of the contract that are legal. *Marathon*, 42 Cal.4th at 990-96.

13 In discussing how severability should be applied in Talent Agencies Act cases involving
14 disputes between managers and artists as to the legality of a contract, the Court in *Marathon*
15 recognized that the Labor Commissioner may invalidate an entire contract when the Act is violated.
16 The Court left it to the discretion of the Labor Commissioner to apply the doctrine of severability to
17 preserve and enforce the lawful portions of the parties’ contract where the facts so warrant. As the
18 Supreme Court explained in *Marathon*:

19 Courts are to look to the various purposes of the contract. If the central
20 purpose of the contract is tainted with illegality, then the contract as a
21 whole cannot be enforced. If the illegality is collateral to the main
22 purpose of the contract, and the illegal provision can be extirpated from
the contract by means of severance or restriction, then such severance
and restriction are appropriate.

23 [. . .]

24 Inevitably, no verbal formulation can precisely capture the full contours
25 of the range of cases in which severability properly should be applied,
26 or rejected. The doctrine is equitable and fact specific and its application
is appropriately directed to the sound discretion of the Labor
Commissioner and trial court in the first instance.

27 *Marathon*, 42 Cal.4th at 996, 998.

1 In assessing the appropriateness of severance, two important considerations are (1) whether
2 the central purpose of the contract was pervaded by illegality and (2) if not, whether the illegal portions
3 of the contract are such that they can be readily separated from those portions that are legal.

4 Petitioner argues, and Respondents concede, severability does not apply here. We agree. The
5 central purpose of the managerial contract was to procure work for Salazar. The contract is void as a
6 whole.

7
8 **III. DISPOSITION**

9 Accordingly, it is hereby ordered as follows:

- 10 1. The Management Agreement between Petitioner and Respondents is void *ab initio* and
11 unenforceable. Respondents have no rights or entitlements to any commissions arising from
12 such agreement.
13 2. Petitioner's request for disgorgement is GRANTED. Respondents shall pay Petitioner
14 \$8,713.74.

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16 Dated: February 17, 2023

STATE OF CALIFORNIA
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19 _____
20 Casey Raymond
Special Hearing Officer for the Labor Commissioner

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22 **ADOPTED AS THE DETERMINATION OF THE LABOR COMMISSIONER**

23
24
25 Dated: 2/17/2023

26 
LILIA GARCIA-BROWER
State Labor Commissioner