

1 DIVISION OF LABOR STANDARDS ENFORCEMENT
2 Department of Industrial Relations
3 State of California
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BEFORE THE LABOR COMMISSIONER
OF THE STATE OF CALIFORNIA

KATHRYN & STACY CURRY,)	Case No. TAC 20-98
Petitioner,)	
vs.)	DETERMINATION OF
)	CONTROVERSY
BARBIZON MODELING AGENCY,)	
)	
Respondent.)	
)	
)	

INTRODUCTION

The above-captioned petition was filed on June 5, 1998 by KATHRYN CURRY (hereinafter "Petitioner"), as guardian at litem for STACY CURRY, alleging that LARRY LIONETTI, LENNA QUESADA, & MARY CARMEN dba BARBIZON MODELING AGENCY (hereinafter "Respondent") violated the Talent Agencies Act (Labor Code §1700, et seq.) by referring artists to Barbizon Modeling School, a business which the respondent has a direct financial interest, in violation of Labor Code §1700.40(b). The Petition seeks a reimbursement for the cost of the school in the amount of \$1,556.00. Respondents were personally served on November 14, 1998. Respondents failed to file an answer.

1 A hearing was scheduled for, and held, on March 3, 1999,
2 in San Francisco, California, before the undersigned attorney
3 specially designated to hear this matter. Petitioners appeared in
4 propria persona. Respondents failed to appear.

5 Based on the testimony and evidence received at this
6 hearing, the Labor Commissioner adopts the following determination
7 of controversy.
8

9 FINDINGS OF FACT

10 1. In June of 1996, Respondents attended and maintained
11 a booth for a "career fair" at petitioner's junior high school.
12 During the fair, Respondents approached petitioner and told her she
13 "has what it takes to be a model".

14 2. Petitioner then called respondents' place of business
15 and set up an interview. Petitioner was informed she had been
16 selected for "the final spot" and was entitled to attend an upcoming
17 modeling school where she would learn the art of modeling.

18 3. Respondents also informed petitioner that, "we will
19 send your photos around to potential clients, including Macy's and
20 Mervyn's in an effort to obtain work. We work closely with these
21 groups and you will have a job before the classes are finished."

22 4. On June 7, 1996 petitioner paid respondents \$1,556.00
23 for 10 modeling classes which included student instruction on how
24 to apply make-up, walk the runway, and "develop the best possible
25 you on both a professional and a personal level". Petitioner
26 completed the school in November of 1996, but was not furnished
27 with any job offers, and did not obtain any further representation

1 through Barbizon. In fact, petitioner was never contacted by
2 Barbizon after she completed the course.

3 5. Petitioner contends Barbizon acted as a talent agency
4 in promising to procure employment and is therefore in violation of
5 Labor Code §1700.40(b), which prohibits talent agencies from
6 referring artists to a business in which the agency has a financial
7 interest. Petitioner seeks reimbursement for the cost of the
8 classes.

9 6. Barbizon has been a licensed talent agency since
10 1995, licensed under the name Barbizon Modeling School of San
11 Francisco, where as the name indicates, the talent agency was
12 conducted in connection with the modeling school. In June of 1997,
13 the owners of Barbizon school purportedly sold and ceased all
14 operations with the agency. The new owners of the agency changed
15 the name to Barbizon Modeling Agency of San Francisco, Inc., dba
16 Barbizon the Agency, as it remains today.

17 7. Prior to assessing culpability, the first issue to be
18 addressed is whether the petitioner is time-barred from bringing
19 this action.

20
21 CONCLUSIONS OF LAW

22 1. Petitioner's is an "artist" within the meaning of
23 Labor Code §1700.4(b), which defines "artist" to include, "models
24 and other artists and persons rendering professional services in
25 motion pictures, ...and other entertainment enterprises."

26 2. Respondent is a "talent agency" within the meaning
27 of Labor Code §1700.4(a), which defines "talent agency" as a person

1 who "engages in the occupation of procuring, offering, promising,
2 or attempting to procure employment or engagements for an artist."

3 3. Labor Code §1700.40(b) provides that "no talent
4 agency may refer an artist to any person firm, or corporation in
5 which the talent agency has a direct or indirect financial interest
6 for services to be rendered to the artist, including, but not
7 limited to, photography, audition tapes, demonstration reels or
8 similar materials, business management, **personal management,**
9 **coaching, dramatic school,** casting or talent brochures, agency-
10 client directories, or other printing."

11 4. It is undisputed that in June of 1996, respondent
12 was a licensed talent agency referring artists to the modeling
13 school owned and operated by same. Presumably, in June of 1997,
14 respondents realizing that the business arrangement of operating an
15 agency in connection with a school ran afoul of California's Talent
16 Agencies Act, ceased all operations in connection with the agency
17 in an effort to comply with statutory law.

18 5. The problematic issue for petitioner is expressed at
19 Labor Code §1700.44(c), which states, "No action or proceeding
20 shall be brought pursuant to this chapter with respect to any
21 violation which is alleged to have occurred more than one year
22 prior to commencement of the action or proceeding."

23 6. Evidence admitted at the hearing establishes the
24 alleged violation occurred in June of 1996, when petitioner paid
25 for the school. Petitioner filed this action on June 5, 1998.

26 7. The alleged violation having occurred two years prior
27 to the filing of the action precludes petitioner from litigating

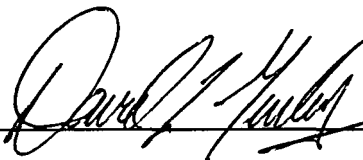
1 this issue pursuant to Labor Code §1700.44(c).

2 8. We therefor conclude, with respect to a Talent
3 Agencies Act violation, the Labor Commissioner may not extend the
4 applicable one (1) year statute of limitations and subsequently
5 petitioner is not entitled to reimbursement.

6
7 ORDER

8 For the above-state reasons, IT IS HEREBY ORDERED that
9 this petition is dismissed.

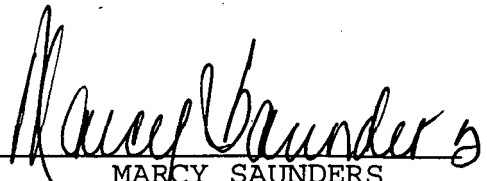
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13 Dated: 4-12-99



DAVID L. GURLEY
Attorney for the Labor Commissioner

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18 ADOPTED AS THE DETERMINATION OF THE LABOR COMMISSIONER:

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21 Dated: 4/12/99



MARCY SAUNDERS
State Labor Commissioner

