

1 **STATE OF CALIFORNIA**
Department of Industrial Relations
2 Division of Labor Standards Enforcement
BY: EDNA GARCIA EARLEY, State Bar No. 195661
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Los Angeles, California 90013
4 Tel.: (213) 897-1511
5 Attorney for the Labor Commissioner

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8 **BEFORE THE LABOR COMMISSIONER**
9 **OF THE STATE OF CALIFORNIA**
10

11 ALEX E. FERRER,
12 Petitioner,
13
14 vs.
15
16 ARNOLD M. PRESTON,
17 Respondent.

CASE NO. TAC 28-05
ORDER ON PETITIONER'S MOTION
TO STAY ARBITRATION
PROCEEDINGS PENDING
DISPOSITION OF PETITION TO
DETERMINE CONTROVERSY BEFORE
CALIFORNIA LABOR
COMMISSIONER; ORDER ON
RESPONDENT'S COUNTER-MOTION
TO DISMISS CASE FOR LACK OF
SUBJECT MATTER JURISDICTION
AND FAILURE TO STATE A CLAIM;
NOTICE OF HEARING

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19 **ORDER ON PETITIONER'S MOTION TO STAY ARBITRATION PROCEEDINGS**
20 **PENDING DISPOSITION OF PETITION TO DETERMINE CONTROVERSY BEFORE**
21 **CALIFORNIA LABOR COMMISSIONER**
22

Petitioner's motion to stay arbitration proceedings pending disposition of petition to determine controversy before California Labor Commissioner is denied on the grounds that the Labor Commissioner does not have the authority to stay arbitration proceedings. Such a motion must be made directly to the arbitrator or to the superior court.

1 ORDER ON RESPONDENT'S COUNTER-MOTION TO DISMISS CASE FOR LACK OF
2 SUBJECT MATTER JURISDICTION AND FAILURE TO STATE A CLAIM

3 Respondent's counter-motion to dismiss case for lack of subject matter jurisdiction
4 and failure to state a claim is denied. "When the Talent Agencies Act is invoked in the
5 course of a contract dispute, the Commissioner has exclusive jurisdiction to determine his
6 jurisdiction over the matter, including whether the contract involved the services of a talent
7 agency." *Styne v. Stevens* 26 Cal.4th 42, 54. Petitioner raises the Talent Agency Act in
8 defense to Respondent's demand for Arbitration demanding "management fees" pursuant to
9 a contract entered into between the parties. Accordingly, this case presents a colorable basis
10 for exercise of the Labor Commissioner's jurisdiction and therefore, the matter must be
11 submitted to the Labor Commissioner for determination. *Id.* at 60.

12 NOTICE OF HEARING

13 PLEASE TAKE NOTICE that the above-captioned matter has been scheduled for
14 hearing before the undersigned attorney for the Labor Commissioner on Monday,
15 March 6, 2006, at 10:00 a.m., at 320 W. 4th Street, Suite 430, Los Angeles, Ca. 90013.

16 At this hearing, the parties will be permitted to testify, present evidence, and question
17 witnesses. The Labor Commissioner's determination of this controversy will be based upon
18 the evidence and testimony presented at this hearing.

19 Dated: 11/8/05

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21 EDNA GARCIA EARLEY, Attorney
22 for the Labor Commissioner

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PROOF OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is DIVISION OF LABOR STANDARDS ENFORCEMENT, Department of Industrial Relations, 320 W. 4th Street, Suite 430, Los Angeles, CA 90013.

On November 8, 2005, I served the following document described as:

ORDER ON PETITIONER'S MOTION TO STAY ARBITRATION PROCEEDINGS PENDING DISPOSITION OF PETITION TO DETERMINE CONTROVERSY BEFORE CALIFORNIA LABOR COMMISSIONER; ORDER ON RESPONDENT'S COUNTER-MOTION TO DISMISS CASE FOR LACK OF SUBJECT MATTER JURISDICTION AND FAILURE TO STATE A CLAIM; NOTICE OF HEARING

on the interested parties in this action [28-05] by placing

the originals

a true copy thereof enclosed in a sealed envelope addressed as follows:


Ronald A. Dinicola
Kirsten E. Miller
Mitchell Silberberg & Knupp LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064-1683

Joseph D. Schleimer
Schleimer & Freundlich LLP
9100 Wilshire Boulevard, Suite 700W
Beverly Hills, CA 90212

BY MAIL I deposited such envelope in the United States Mail at Los Angeles, California, postage prepaid.

BY MAIL I am readily familiar with the firm's business practice of collection and processing of correspondence for mailing with the United States Postal Service and said correspondence is deposited with the United States Postal Service the same day.

Executed on November 8, 2005, at Los Angeles, California. I declare under penalty of perjury the foregoing is true and correct.


Edna Garcia Earley