STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT
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BEFORE THE LABOR COMMISSIONER

STATE OF CALIFORNIA

DONG HUA PAN, an individual, RYAN PARK, an individual, BO YUAN QIN, an individual, COLLIN O'BRIEN, an individual, NATHANIEL IMM, an individual, JULIUS WALLINHEIMO, an individual. ALEX DALGAARD-HANSEN, an individual, CODY CASTLELLAW, an individual, AYMAN NAWAISEH, an individual, and FLORIAN FEGERL-KURU, an individual,

Petitioners,

vs.

INF1UENCE LLC, a California Limited Liability Company, and ALEXANDRE BALJIAN,

Respondents.

CASE NO.: TAC-52870

DETERMINATION OF CONTROVERSY

I. INTRODUCTION

A Petition to Determine Controversy under Labor Code section 1700.44, came before the undersigned attorney for the Labor Commissioner assigned to hear this case. Petitioners, DONG HUA PAN, BO YUAN QIN, JULIUS WALLINHEIMO, NATHANIEL IMM, CODY CASTELLAW, COLLIN O'BRIEN, FLORIAN FEGERL-KURU, AYMAN NAWAISEH, ALEX DALGAARD-HANSEN and RYAN PARK, (collectively, "Petitioners"[1]), appeared and were represented by Michael A. Trauben and Thomas K. Richards of SINGH, SINGH & TRAUBEN, LLP. Respondent INF1UENCE LLC, a California limited liability company, and ALEXANDRE BALJIAN, an individual (hereinafter, "Respondent"), appeared and was represented by Stephen D. Weisskopf of LEVATOLAW, LLP.

The matter was taken under submission. Due consideration having been given to the testimony, documentary evidence and arguments presented, the Labor Commissioner hereby adopts the following determination (hereinafter, "Determination").

II. FINDINGS OF FACT

All ten Petitioners testified similarly. Petitioners are "gamers" and dedicate themselves to playing and commenting online about video games, (*e.g.*, League of Legends). These games are generally multiplayer online battle arena video games. Petitioners both excelled at playing the games and specialized in creating short online videos about the games, which they would post on their online platforms. Petitioners are self-described content creators and YouTube personalities that have collectively amassed several million subscribers on their various online platforms, including YouTube and Twitch. Through either game play or the production of short videos, Petitioners generated significant traffic on these online platforms.

As a result of the rising popularity of video game play, Petitioners experienced a significant increase in their online followers. The increased number of followers attracted third-party brands who sought to use Petitioners' online platforms to drive sales of their products. As an example, a third-party brand like Starbucks or Coca Cola would pay an online personality to use their product

[1] Petitioner, Kellen Pontius failed to appear and was dismissed by stipulation of the parties.

while Petitioners were online. This method of advertising through online social media has become a common mechanism to drive the sales of consumer products as the popularity of online personalities, or more commonly known as "influencers[2]", continues to explode.

Respondent, recognizing Petitioners' influencer status based on the number of people following their social media accounts ("followers"), directly contacted Petitioners seeking to represent them. Specifically, Respondent promised to package and pitch Petitioners to third-party brands seeking to advertise their products through the Petitioners' online platforms. More specifically, at Respondent's request, Petitioners compiled their respective "demographics, audience, viewer statistics, analytics, device types, operating system", and that information was presented and pitched to third-party advertisers.

The Petitioners testified, the scope of their work for Respondent involved creating tailored advertisements for various third-party brands. The brands would often provide scripts and guidelines to promote the products, but Petitioners enjoyed vast creative liberty with the advertisements and/or product placements to connect the product with Petitioners' followers. Petitioners often used of team of editors when creating and finalizing their videos.

Respondent marketed himself as "Talent Managers" of "YouTubers." Commencing on or around July 3, 2019, each of the Petitioners entered into "talent contracts" (hereinafter, "Contracts") with Respondent. Under the Contracts, Petitioners agreed to pay a certain percentage of Petitioners' gross earnings received in connection with Petitioners' "employment in the entertainment industry". In exchange, Respondent promised and agreed to "use all reasonable efforts to procure and negotiate employment for the [Petitioners] in the internet entertainment industry". The Contracts describe Respondent's duties as follows:

> The Agency [Respondent] shall negotiate contracts on behalf of the Content Creator for the rendition of services as a Content Creator and/or performer in the internet entertainment industry and to solicit offers and negotiate contracts for the sale of any internet entertainment project or package in which the Content Creator owns an interest, The Agency's activities shall relate only to the Content Creator's

[2] "Influencer": one who exerts influence; a person who inspires or guides the actions of others; a person who is able to generate interest in something (such as a consumer product) by posting about it on social media Merriam-Webster.com Dictionary, Merriam-Webster, https://www.merriam-webster.com/dictionary/influencer. Accessed 14 Jul. 2025.

involvement in the internet entertainment industry. For purposes of this Contract, the term "internet entertainment industry": shall include, but not be limited to the following" Twitch.tv streams, YouTube.com Video and streams, social media, literature, talent engagements, conventions and events, publications, and the use of the Content Creator's name, likeness and talents for commercial and advertising purposes.

As Petitioners testified and referenced in Petitioners' Post-Trial brief, pages 6-7 (hereinafter, "PPTB"), Petitioners described their duties under the Contracts as follows:

Ryan Park p/k/a Vars	YouTube content creator, streamer, storyteller, documentarian, personality and entertainer. "I do video essays analyzing and discussing various facets of videogames, namely from design to the game's competitive landscape to just the game's overall mechanics and elements and characters." Creates mini- documentaries about games and the gaming industry, averaging "anywhere between 100,000 to 150,000 views per video."	Transcript, April 24, 2024, pgs. 41-42, lns. 21-15
Bo Yuan Qin p/k/a BobQin	YouTube and Twitch content creator, streamer, personality and entertainer, primarily live streaming the game *League of Legends*. "[I]t was me playing the game, commentating about the game, being informative, and I do it as a watch and I would interact with my chat and we would just have a good time" "… And they want to watch me play, learn the game and enjoy my personality at the same time." "My Twitch and YouTube -- my Twitch stream would last anywhere between four to six hours per day. I'd just go live on Twitch. For YouTube videos, my videos would average around 10 to 15 minutes per video."	Transcript, April 23, 2024, pg. 81, lns.19-23; pg. 93, lns. 17-23; pg. 97, lns. 1-8

Julius Wallinheimo p/k/a Dumbs	YouTube and Twitch content creator, streamer, personality and entertainer, primarily live streaming the game *League of Legends*. "I make funny gaming videos on YouTube, and I also stream those same games on sites like Twitch.tv." "I am trying to entertain the audience, like pretty much all the time with -- like for example, on Twitch.tv or on YouTube." YouTube videos "generally get like, half a million views." Petitioner's work for Respondent's was limited to his creative and highly edited YouTube Videos, highlighting recent events and the most exciting/funny moments from Petitioner's streams. "It takes like, two months to create one video. It's basically just me doing a lot of work for one video, to make it look better than everybody else's video." Three days to create advertising content.	Transcript, April 23, 2024, pg. 101, lns. 21-25; pgs. 109-110, lns. 19-10; 114, lns 4-23; pgs. 118-119, lns 22-12; pg. 121, lns. 3-6
Nathaniel Imm p/k/a Gbay99	YouTube and Twitch content creator, storyteller, documentarian, personality and entertainer. "I'm a professional YouTuber. Sometimes I'd stream as well, but I make the majority of my income through making YouTube videos." "It's mostly gaming oriented stuff surrounding the videogame "League of Legends", where I play the game or talk about it or create videos telling stories surrounding the game." "I make videos that are sort of documentaries that talk about things that go on at various different tournaments, online events that professional players might be playing at. Occasionally, I cover just things that are going on with the community and hot news topics."	Transcript, April 23, 2024, pg. 126-128, lns. 25-1

Cody Castellaw p/k/a Ashek	YouTube and Twitch content creator, storyteller, streamer, personality and entertainer, primarily live streaming the game *Player Unknown Battleground*. "Yeah, I'm on the screen. It adds a little bit of personality and personal connection … I would say I was very good at making drama." Performed above and beyond just playing the game – engaged with other players in a manner outside the general scope of the game to create narratives and more interesting content. "The opponents can hear you. That's why I made the game so, you know, fun with everybody can hear you, yeah. And then, you know, you have those interactions. You tell -- you talk to people. It's a way to bait people into coming to your stream."	Transcript, April 23, 2024, pgs. 186-7, lns. 13-20; 189-190, lns. 6-6
Collin O'Brien p/k/a EZScape	YouTube content creator, streamer, storyteller, documentarian, personality and entertainer. "So I make videos about speed running, that's playing a videogame from start to finish as fast as you can, so it'll end up being like, single player videogames and that's pretty much it. I just make documentaries and video essays about them.[3]"	Transcript, April 24, 2024, pgs. 4-5, lns. 9-11

Consistent with the Contracts, Respondent contacted third-party brands on behalf of all Petitioners. Brand agreements were booked for all Petitioners and Petitioners fulfilled their responsibilities by creating tailored advertisements for the various third-party brands. The third-party brands paid the agreed upon amounts directly to Respondent, but those monies were rarely remitted to Petitioners.

Petitioners became frustrated with not receiving their monies earned. In 2021, Petitioners began to pressure Respondent for payment of their earnings. In response to this pressure, Respondent offered several excuses. On some occasions, Respondent described he never received payments from the third-party brands. In or around Christmas 2021, Petitioner Dong Hua Pan

[3] The testimony of Petitioners Hansen, Nawaiseh, and Fegerl-Kuru was unintentionally not recorded. However, these three Petitioners similarly testified about their roles and confirmed they were also popular online YouTube and Twitch personalities and content creators.

testified he realized that Respondent had no intention of paying him or the other Petitioners after directly contacting various brands who confirmed they had paid Respondent, in direct contravention of Respondent's representations to Petitioners.

On other occasions, Respondent stated he placed Petitioners' earnings in a Bank of America account, but inexplicably Bank of America froze those accounts. Over a period of months, Respondent continuously conveyed to Petitioners he would initiate litigation against Bank of America, if Bank of America failed to release Petitioners' funds. Respondent requested that Petitioners remain patient as Respondent resolved these purported issues.

To convince Petitioners the Bank of America saga remained ongoing, Respondent sent each of the Petitioners a "Financial Update for Payment Remittance", wherein Respondent continued to advise each of the Petitioners to remain patient. Respondent further represented to Petitioners that he was doing everything in his power to unfreeze their banks accounts and pay Petitioners all outstanding payments. Respondent failed to provide any evidence in support of these excuses, and consequently, Respondent's testimony was not credible.

The evidence further established that Respondent converted substantial amounts of compensation and earnings belonging to Petitioners as Respondent retained the entirety of all Petitioners' compensation received from various advertisers in exchange for Petitioners' online internet entertainment services. Respondent used Petitioners' earnings to satisfy the debts of the company by withholding Petitioners' earnings while repeatedly promising Petitioners they would eventually be paid. And Respondent advised Petitioners in writing that he would pay them a portion of their earnings out of his own personal pocket.

Petitioners allege that Respondent acted as an unlicensed talent agency. Petitioners seek a determination voiding *ab initio* all Contracts between the parties. Petitioners further seek an order requiring Respondent to disgorge and repay Petitioners' commissions[4] received by Respondent.

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[4] Petitioners' commissions varied between 15 percent and 20 percent.

III. LEGAL ISSUES

1. Are Petitioners "artists" as defined pursuant to Labor Code section 1700.4(b)?

2. Did Respondent procure employment in violation of the Talent Agencies Act?

3. Is Petitioners' Petition to Determine Controversy barred by the statute of limitations pursuant to Labor Code section 1700.44(c) and *Styne v. Stevens* (2001) 26 Cal.4th 42?

4. Are Petitioners entitled to their request for relief of disgorgement and repayment of all monies received by Respondent?

5. Is Respondent, ALEXANDRE BALJIAN, individually liable?

IV. LEGAL FINDINGS

Labor Code section 1700.44 governs the parties' dispute. The Labor Commissioner has the authority to hear and determine various disputes, including the validity of artists' manager-artist contracts and the liability of the parties thereunder. (*Styne v. Stevens* (2001) 26 Cal.4th 42, 50 ("*Styne*") (citing *Buchwald v. Superior Court* (1967) 254 Cal.App.2d 347, 357.)

1. Are Petitioners "artists" within the meaning of Labor Code section 1700.4(b)?

The thorniest issue is whether Petitioners are artists within the meaning of Labor Code section 1700.4(b). The California Talent Agencies Act (hereinafter, "TAA") provides the Labor Commissioner with original exclusive jurisdiction over controversies between "artists" and "talent agents." (Labor Code §1700.44(a).)

Labor Code section 1700.4(b) defines "artist" as:

> [A]ctors and actresses rendering services on the legitimate stage and in the production of motion pictures, radio artists, musical artists, musical organizations, directors of legitimate stage, motion picture and radio productions, musical directors, writers, cinematographers, composers, lyricists, arrangers, models, **and other artists and persons rendering professional services** in motion picture, theatrical, radio, television **and other entertainment enterprises.** [Emphasis added]

The pivotal question is whether "influencers" like Petitioners, as described herein, are "artists" within the meaning of the TAA. To answer this question, we turn to several Labor Commissioner Determinations.

In *Beaudoin v. Macalpin* (TAC 48086), Beaudoin, an online personality in the gaming industry, derived her primary source of income from hosting a one-hour online news program. Seeking to capitalize on Beaudoin's popularity, the respondent began to submit Beaudoin for a variety of endorsement deals that compensated Beaudoin for using their products online. As "a popular online personality and aspiring television and motion picture actor" the Labor Commissioner determined that Beaudoin was "an 'artist' within the meaning of Labor Code section 1700.4(b)." (*Beaudoin*, p. 4.)

Recently, in *Beaty v. Aiello, et al.* (TAC 52756), the Labor Commissioner determined that an influencer on Instagram was an artist, observing that "[w]hether the clothing or featured product is shown on television, a movie theater, or an online posting on social media is immaterial as the TAA makes no distinction between the forum." (*Beaty*, p. 9.)

In *Bostanian v. Rao* (TAC 52836), the Labor Commissioner further examined the parties' agreement as evidence of petitioner's status as an artist: "[t]he evidence presented indicates the Agreement identified Respondent as a 'model.'" Here, it is undisputed that the governing Contracts characterize each Petitioner as a "performer in the internet entertainment industry" and seeks to proffer "employment in the internet entertainment industry." As in *Bostanian v. Rao*, it is further undisputed that Petitioners were paid to promote various products for third parties. (*Bostanian* p. 12.)

In *Stage v. Unruly Agency LLC* (TAC 52876), Stage was a person rendering artistic and professional services through OnlyFans for the purposes of entertaining her subscribers. Stage produced video and photographic content which could be purchased on OnlyFans. Stage on multiple occasions also produced customized content at the request of such subscribers like a workout video. The Labor Commissioner held that Stage, acting in the capacity of an online performer and model in both photographic and video content, is an artist within the meaning of Labor Code section 1700.4(b). (*Stage*, p. 7)

Conversely, in *Angela Wells v. Barmas, Inc. dba Fred Segal Agency* (TAC 17-00), the Labor Commissioner determined that Angela Wells, as an ordinary make-up artist on an audio-

visual production wherein the make-up was not an integral element of the production (in contrast to the prosthetics specialist in the Jim Carrey movies, "*The Mask*" and "*The Grinch*"). (*Wells* p.5.) In concluding that Wells was not an "artist" under the TAA, the Labor Commissioner observed that throughout the history of the TAA, the definition of "artist" only included above-the-line performers "or the creative forces behind the production whose contributions were an essential and integral element of the productions." (*Wells*, p. 5-6.)

Wells demonstrates the Labor Commissioner's historical consensus that not all professions in the entertainment industry are artists and thus entitled to protection under the TAA. If we expand the definition of "artist" to include influencers, as "other artists and persons rendering professional services in motion picture, theatrical, radio, television and other entertainment enterprises" under Labor Code section 1700.4(b), those persons must contribute creatively to the online product created for their party brands or those paying for the influencers' online services.

Respondent argues in their post-trial brief (RPTB), and we agree:

> Petitioners do not fit neatly in the definition of an "artist" under the Talent Agency Act. For example, they are not actors or actresses rendering services on the stage or in movies. They are not musical artists. The question is whether they fall under the language [of Labor Code section 1700.4(b)] stating, 'and other artists and persons rendering professional services in . . . other entertainment enterprises. (RPPB, p. 3.)

Applying Labor Code section 1700.4(b), Respondent argues Petitioners are not rendering "professional services" and states "traditionally, professional services are occupations that require special training. Typical professional services include architects, accountants, engineers, doctors and lawyers. Often, these professionals require a special degree and/or license to practice their trade." (RPTB p. 3.) However, Respondent fails to provide any authority for this assertion, and we disagree. The complete question is whether Petitioners are "other artists and persons rendering professional services in . . . **other entertainment enterprises**." [Emphasis added.] Actors and models, both expressly deemed artists under the TAA, do not require special degrees and/or licenses to practice their trade when doing so in other entertainment enterprises. Historically, the Labor Commissioner looks to whether the Petitioner is a creative force behind the entertainment enterprise in which they engage.

As the Labor Commissioner discussed in *Beaty v. Aiello, et al.* (TAC 52756), "[w]e have previously discussed the Legislative intent of the term, "artist."

> [W]e believe the Legislature intended to limit the term 'artists' to those individuals who perform creative services in connection with an entertainment enterprise. Without1such a limitation, virtually every 'person rendering professional services' connected with an entertainment project . . . would fall within the definition of 'artists.' We do not believe the Legislature intended such a radically far reaching result. [Emphasis in original.]

(Beaty, pp. 8-9.) (internal citations omitted.)

We further recognized, however, that the Legislature made a "very significant change" when it expanded the occupation of "models" to the definition of "artists" under Labor Code section 1700.4(b). (See *Id*., p. 9)(internal citations omitted.) In 1982, the California Entertainment Commission (hereinafter, "Commission"), established by Assembly Bill 997, was tasked to study the laws regulating the licensing of agents and representatives of artists in the entertainment industry. (*Id.*) As part of its review of the TAA, the Commission added "models" to the definition of "artists" under Labor Code section 1700.4(b). (*Id.*) "'The Commission reasoned that, '**as persons who function as an integral and significant part of the entertainment industry,** models should be included within the definition of artist.'" (*Id*.) [Emphasis added] Similarly, we have held that models are "artists" as defined by Labor Code section 1700.4(b). (See *Id*.)(internal citations omitted.)

In deciding whether influencers are artists under the Act we again look to the legislative intent. In *Waisbren v. Peppercorn Productions, Inc.*, the Court states:

> The Talent Agencies Act (Lab. Code, §§ 1700-1700.47) is a remedial statute. Statutes such as the act are designed to correct abuses that have long been recognized and which have been the subject of both legislative action and judicial decision […] such statutes are enacted for the protection of those seeking employment [i.e. the artist]. Consequently the act should be liberally construed to promote the general object sought to be accomplished; it should not be construed within the narrow limits of the letter of the law. *Waisbren v. Peppercorn Productions, Inc.*, (1995) 41 Cal.App.4th 246, 254-255 (citations omitted)

To effectuate legislative intent, we will liberally construe the TAA here. This is not to say, however, that an influencer or person with a social media presence will always be

considered an "artist" under the TAA. The TAA "'must be given a reasonable and common-sense construction in accordance with the apparent purpose and intention of the lawmakers – one that is practical rather than technical, and that will lead to wise policy rather than to mischief or absurdity.'" (*Buchwald v. Superior Court* (1967) 254 Cal.App.2d 347, 354-355)(citing 45 Cal.Jur.2d, Statutes, § 116, pp. 625-626); see also *Grecco v. Blur Photo, LLC*, TAC Case No. 23297, at 14.)

As in *Beaty*, we caution that the decision reached here was based on the evidence presented at the TAC Hearing. Any matter involving an influencer or person with a social media presence who purports to be an "artist" under Labor Code section 1700.4(b) will be evaluated on a case-by-case basis. (*Beaty*, p. 9-10)

Also, like *Beaty*, we are cautious here in our determination that Petitioners are artists. We are not holding, as Respondent argues, that anyone who calls themselves a social media influencer and anyone who posts content on social media sites is an "artist" within the meaning of the TAA. Here, Petitioners carefully crafted their image, personality and created their videos, often with a team of editors. The final product was creative in nature and our holding here comports with our historical application of the TAA, that those who seek its protection are creative in the entertainment industry. The express wording in Labor Code section 1700.4(b) stating, "other artists and persons rendering professional services in . . . other entertainment enterprises" provides the Labor Commissioner and the Courts with the ability to expand the definition of "artist" as the legislature did with "models" in 1982. The entertainment industry is a shifting and evolving industry reflective of the time and the people who experience this form of art. We conclude that "influencers" function as an integral and significant part of the entertainment industry as reflected by today's society and are artists if they can demonstrate a showing of creativity, which shall be evaluated on a case-by-case basis.

Accordingly, as reflected by the record, supported by legal precedent, and consistent with the TAA's remedial purpose to correct abuses, as online personalities and entertainers, each of the Petitioners are "artists" within the meaning of section 1700.4(b).

2. Did Respondent procure employment in violation of the Talent Agencies Act?

Labor Code section 1700.4(a) defines "talent agency" as, "a person or corporation who engages in the occupation of procuring, offering, promising, or attempting to procure employment or engagements for an artist or artists . . ." Labor Code section 1700.5 provides that "[n]o person shall engage in or carry on the occupation of a talent agency without first procuring a license therefor from the Labor Commissioner."

The TAA is "remedial; its purpose is to protect artists seeking professional employment from the abuses of talent agencies." (*Styne v. Stevens* (2001) 26 Cal.4th 42, 50.) "The Act establishes its scope through a functional, not a titular, definition. It regulates conduct, *not labels;* it is the act of procuring (or soliciting), not the title of one's business, that qualifies one as a talent agency and subjects one to the Act's licensure and related requirements." (*Marathon Entm't, Inc. v. Blasi* (2008) 42 Cal.4th 974, 986) ("*Marathon*") (citing Labor Code section 1700.4(a)). The Labor Commissioner can determine whether a person or corporation is subject to the Act's requirements based on the conduct and actions of that person or corporation.

It is undisputed that Respondent was not a licensed talent agent at the time he entered into the Contracts for Respondent to "solicit offers" and "negotiate contracts on behalf of the content creator [Petitioners] in the internet entertainment industry", "use all reasonable efforts to procure and negotiate employment for [Petitioners] in the internet entertainment industry" and receive commissions as Petitioners' "exclusive" "talent agent".

In addition to the underlying agreements, it is readily apparent from the evidence, including the testimony, that Respondent was actively engaged from the outset of the Contracts in soliciting offers of employment for Petitioners. Respondent accepted these offers of employment on behalf of Petitioners, and Respondent collected and retained the proceeds derived from Petitioners' employment or engagement including, in several instances, collecting and retaining 100% of such proceeds.

Petitioners were not merely presented with advertising opportunities, as Respondent argues, but rather Respondent packaged and pitched Petitioners' employment and engagement to

third parties.

As all Petitioners testified, the scope of their work for Respondent (*i.e.*, the employment and engagements Respondent procured for Petitioners) involved creating tailored advertisements for various third-party brands. The intent of the Contracts was to authorize Respondent to obtain work for Petitioners in the entertainment industry.

Respondent procured employment or engagements without a talent agency license within the meaning of Labor Code section 1700.4(a). An agreement that violates the licensing requirements of the TAA is illegal and unenforceable. "Since the clear object of the Act is to prevent improper persons from becoming [talent agents] and to regulate such activity for the protection of the public, a contract between an unlicensed [agent] and an artist is void." (*Buchwald v. Superior Court* (1967) 245 Cal.App.2d 347, 351.)

3. Is Petitioner's Petition to Determine Controversy barred by the statute of limitations pursuant to Labor Code section 1700.44(c) and *Styne v. Stevens* (2001) 26 Cal.4th 42?

Respondent argues the Petitioners have violated the TAA's one-year statute of limitations. Labor Code §1700.44(c) provides:

> No action or proceeding shall be brought pursuant to the Talent Agencies Act with respect to any violation which is alleged to have occurred more than one year prior to the commencement of this action or proceeding.

Petitioners filed their Petition in response to Respondent's Superior Court contract action to enforce rights under the same contract. Thus, Petitioners do not seek to void this contract affirmatively, but rather, as a defense.

In *Styne v. Stevens* (2001) 26 Cal.4th 42, the court held, "that statutes of limitations do not apply to defenses...." Under well-established authority, a defense may be raised at any time, even if the matter alleged would be barred by a statute of limitations if asserted as the basis for affirmative relief. (*Id.*) The rule applies to contract actions, such as this one. One sued on a contract may urge defenses that render the contract unenforceable, even if the same matters, alleged as grounds for restitution after rescission, would be untimely. (*Styne, supra* at p. 51; see also 3 Witkin,

Cal. Procedure (4th Ed. 1996) Actions, § 423, p. 532; see also *Park v. Deftones* (1999) Cal.App.4th 1465.) The one-year statute of limitations under Labor Code section 1700.44(c) does not bar an artist from asserting as a defense that a contract is illegal where a manager, for example, acted as an unlicensed talent agent. (See *Id*. at 53-54.)

Petitioners' Petition was timely under *Styne*. That said, a claim for disgorgement, an affirmative relief, is generally limited to a one-year look back per Labor Code section 1700.44(c).

4. Are Petitioners entitled to their request for affirmative relief of disgorgement and repayment of all monies received by Respondent?

Petitioners filed their Petition to Determine Controversy on November 30, 2022. Petitioners are seeking to address TAA violations that occurred prior to November 30, 2021 and throughout 2021. Therefore, Petitioners seek disgorgement of commissions received beyond the one-year statute of limitations, a request for affirmative relief, where such claims are generally prohibited beyond the one-year look back.

The Labor Commissioner recently held in *Garcia v. Berthurum* TAC 52868 (2025) "the Labor Commissioner is empowered to use equitable doctrines. (See *Marathon, supra,* 42 Cal.4th at 995)("nothing in the Entertainment Commission's description of the available remedies suggests she is obligated to do so, or that the Labor Commissioner's power is untempered by the ability to apply equitable doctrines … to achieve a more measured and appropriate remedy where the facts so warrant."].) (*Garcia* p. 12-13)

In *Garcia*, as here, Respondent wove an ongoing tail of lies to intentionally mislead and prevent Petitioners from unearthing the truth. In *Garcia*, "the lies were so elaborate that [Respondent] BETHERUM would avoid [Petitioners] GARCIA and VALVERDE's questions by having them communicate with imaginary subordinates while he told them he was too busy to speak with them." (*Garcia*, p. 3). As in *Garcia*, Respondent here went to elaborate lengths to mislead Petitioners to prevent them from uncovering the fact that Respondent has absconded with Petitioners' earnings. Notably, Respondent described he never received payments from the third-party brands and stated he placed Petitioners' earnings in a Bank of America account, inexplicably frozen by Bank of America.

The Labor Commissioner in *Garcia* held, "that such equitable tolling is appropriate here per the doctrine of continuous accrual, "[t]he common law theory . . . that a cause of action challenging a recurring wrong may accrue not once but each time a new wrong is committed." (*Aryeh v. Canon Bus. Sol., Inc.* (2013) 55 Cal.4th 1185, 1189.) The continuous accrual doctrine aggregates a series of wrongs or injuries for purposes of the statute of limitations, treating the limitations period as accruing for all of them upon commission or sufferance of the last of them. (*Id*. at 1192.) (TAC, 52868 p.13).

We see no distinction from *Garcia* here. As in *Garcia*, Respondent repeatedly engaged in an egregious pattern of concealing or misrepresenting to Petitioners the status of their monies owed. For example, as all parties attest, up to and including February 1, 2022, Respondent continued to advise each of the Petitioners that their payments were delayed due to various alleged banking issues and requested that Petitioners remain patient as Respondent resolved these purported issues.

Also, as described above, on February 1, 2022, Respondent sent each of the Petitioners the "Financial Update for Payment Remittance", wherein Respondent continued to advise each of the Petitioners to remain patient and that Respondent was doing everything in his power to unfreeze their bank accounts and pay Petitioners all outstanding payments. As Petitioners argue and we agree, it was obvious Respondent manufactured a false pretext and narrative intentionally designed and intended to dissuade and discourage Petitioners from pursuing their claims.

In addition, after Respondent informed Petitioners that third-party brands failed to pay Petitioners, Dong Hua Pan testified he directly contacted various brands who confirmed Respondent was collecting Petitioners' monies and converting all such monies collected.

Applying the above doctrine to these unique set of facts, we find that equitable tolling is applied from the inception of the relationship between the parties until the filing of the petition because Respondent misled Petitioners throughout by both advising them Bank of America was at fault and the third-party brands failed to pay Respondent, both blatant fabrications. Therefore, Petitioners are entitled to their request for relief of disgorgement and repayment of all monies

beyond the one-year look back.

5. Is Respondent, ALEXANDRE BALJIAN, individually liable?

In *Beaudoin v. Macalpin* (TAC 48086), we held when determining whether an individual should be found individually liable that we must consider whether the individual completely disregarded corporate formalities and obligations and should therefore be held liable as the corporation's alter ego.

> There is not a litmus test to determine when the corporate veil will be pierced; rather the result will depend on the circumstances of each particular case. There are, nevertheless two general requirements: '(1) that there be such unity of interest and ownership that the separate personalities of the corporation and the individual no longer exist and (2) that, if the acts are treated as those of the corporation alone, an inequitable result will follow.(*Beaudoin*, pp. 5-6) (citing *Greensan v. LADT, LLC* (2010) 191 Cal.App.4th 486, 511.)

Here, like the respondent in *Beaudoin,*, BALJIAN admittedly used a self-help remedy to satisfy the debts and/or financial troubles of the company by unlawfully withholding Petitioners' earnings while falsely promising Petitioners they would eventually be paid. Moreover, BALJIAN repeatedly advised Petitioners in writing that he would pay them a portion of their earnings out of his own personal pocket, whereby BALJIAN commingled his personal funds with his corporate funds (or fraudulently represented that he was using his own personal funds to "advance" payments to Petitioners). As expressly set forth in *Beaudoin*, the law simply does not allow this.

BALJIAN, as an individual, failed to distinguish between his personal and corporate finances and failed to distinguish any separation between himself and his now defunct limited liability company. The defunct Inf1uence LLC and BALJIAN, the individual, are one in the same.

As Petitioners argue and we agree, and as stated in *Granoff v. Yackle* (1961) 196 Cal.App.2d 253, 257,

> It is well settled by the great weight of authority in this country that the officers of a corporation are personally liable to one whose money or property has been misappropriated or converted by them to the uses of the corporation, although they derived no personal benefit therefrom and acted merely as agents of the corporation.

As set forth in *Beaudoin*, the underlying reason for this rule is that an officer should not be permitted to escape the consequences of his individual wrongdoing by saying that he acted on behalf

of a corporation in which he was interested. (*Beaudoin*, p. 6.) And, as expressly set forth in *Granoff,* conversion is sufficient to pierce the corporate veil. We conclude that Inf1uence LLC and BALJIAN, the individual, are one in the same and BALJIAN can therefore be held individually liable.

V. DAMAGES:

The damages established through documents presented at the hearing, and now awarded, include the following:

Dong Hua Pan:

- Unpaid earnings: $24,656.00 (Exhibits 8-9,16-29);
- Unlawful commissions: $4,335.00 (Exhibits 8-9, 16-29);
- Subtotal: $28,900.00
- Interest: $28,900 x by .10 = $2,890 ÷ 365 = $7.92 per day x 960 days (Nov 30, 2022 – July 17, 2025) = $7,603.20
- Total: $28,900 + $7,603.20 = **$36,503.20**

Ryan Park:

- Unpaid earnings: $9,282.50 (Exhibits 13-14, 31-36)
- Interest: $9,282.50 x by .10 = $928.25 ÷ 365 = $2.54 per day x 960 days (Nov 30, 2022 – July 17, 2025) = $2,438.40
- Total: $9,282.50 + $2,438.40 = **$11,720.90**

Bo Yuan Qin:

- Unpaid earnings: $5,270.00 (Exhibits 15, 39-42);
- Unlawful commissions: $930.00 (Exhibits 15, 39-42);
- Subtotal: $6,200.
- Interest: $6,200 x by .10 = $620 ÷ 365 = $1.70 per day x 960 days (Nov 30, 2022 – July 17, 2025) = $1,632
- Total: $6,200 + $1,632 = **$7,832**

Collin O'Brien:

- Unpaid earnings: $19,762.50 (Exhibits 6-7, 48-53, 57);

- Unlawful commissions: $3,487.50 (Exhibits 6-7, 48-53, 57);
- Subtotal: $23,250.00.
- Interest: $23,250 x by .10 = $2,325 ÷ 365 = $6.37 per day x 960 days (Nov 30, 2022 – July 17, 2025) = $6,115.20
- Total $23,250 + $6,115.20 = **$29,365.20**

Nathaniel Imm:

- Unpaid earnings: $15,215.00 (Exhibits 12, 64-69, 71);
- Unlawful commissions: $2,685.00 (Exhibits 12, 64-69, 71);
- Subtotal: $17,900.00.
- Interest: $15,215 x by .10 = $1,521.50 ÷ 365 = $4.17 per day x 960 days (Nov 30, 2022 – July 17, 2025) = $4,003.20
- Total: $15,215 + $4,003.20 = **$19,218.20**

Julius Wallinheimo:

- Unpaid earnings: $8,500.00 (Exhibits 10-11, 73-74);
- Unlawful commissions: $2,125.00 (Exhibits 10-11, 73-74)
- Subtotal: $10,625.00.
- Interest: $10,625 x by .10 = $1,062.502 ÷ 365 = $2.91 per day x 960 days (Nov 30, 2022 – July 17, 2025) = $2,793.60
- Total: $10,625 + $2,793.60 = **$13,418.60**

Alex Dalgaard-Hansen:

- Unpaid earnings: $11,605.00 (Exhibits 4-5, 78);
- Unlawful commissions: $2,047.00 (Exhibits 4-5, 78)
- Subtotal: $13,652.00.
- Interest: $13,652 x by .10 = $1,365.20 ÷ 365 = $3.74 per day x 960 days (Nov 30, 2022 – July 17, 2025) = $3,590.40
- Total: $13,652 + $3,590.40 = **$17,242.40**

Cody Castellaw:

- Unpaid earnings: $5,882.20 (Exhibits 79-80);
- Unlawful commissions: $4,335.00 (Exhibits 79-80)
- Subtotal: $28,900.00.
- Interest: $28,900 x by .10 = $2,890 ÷ 365 = $7.92 per day x 960 days (Nov 30, 2022 – July 17, 2025) = $7,603.20
- Total: $28,900 + 7,603.20 = **$36,503.20**

Ayman Nawaiseh:

- Unpaid earnings: $30,945.00 (Exhibits 81-84);
- Unlawful Commissions: $5,460.00 (Exhibits 81-84);
- Subtotal: $36,405.00.
- Interest: $36,405 x by .10 = $3,640.50 ÷ 365 = $9.97 per day x 960 days (Nov 30, 2022 – July 17, 2025) = $9,571.20
- Total: $36,405 + $9,571.20 = **$45,976.20**

Florian Fegerl-Kuru:

- Unpaid Earnings: $4,700.00 (Exhibit 85);
- Unlawful Commissions: $829.00 (Exhibit 85)
- Subtotal: $5,529.00.
- Interest: $5,529 x by .10 = $552.90 ÷ 365 = $1.51 per day x 960 days (Nov 30, 2022 – July 17, 2025) = $1,449.60
- Total: $5,529.00 + $1,449.60 **= $6,978.60**

Total Unpaid Earnings and Interest for all Petitioners = $224,764.50

VI. CONCLUSION

Labor Code section 1700.5 requires a talent agent to procure a license from the Labor Commissioner. Since the clear object of the TAA is to prevent improper persons from becoming talent agents and to regulate activity for the protection of the public, a contract between an unlicensed artist's manager and an artist is void. (*Buchwald, supra,* 254 Cal.App.2d at 351.)

Consequently, the Contracts between Petitioners and Respondent are void *ab initio* for all purposes.

VII. ORDER

For the reasons set forth above, IT IS HEREBY ORDERED that:

1. That Respondent's Contracts with Petitioners are illegal, unenforceable, and void *ab initio; and*
2. Petitioners' request for disgorgement and repayment of any and all monies is granted.
3. Respondent shall disgorge and repay Petitioners $224,764.50 for all monies unpaid and additional interest pursuant to monies earned in connection with the Contracts as reflected in the damages section above.

Dated: July 18, 2025

DAVID L. GURLEY
Attorney for the Labor Commissioner

ADOPTED AS THE DETERMINATION OF THE LABOR COMMISSIONER:

Dated: August 5, 2025

Lilia Garcia-Brower

LILIA GARCIA-BROWER
California State Labor Commissioner