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**BEFORE THE LABOR COMMISSIONER
OF THE STATE OF CALIFORNIA**

FLORENCE GRIFFITH JOYNER,
Petitioner,
vs.
GORDON BASKIN dba GORDON BASKIN &
ASSOCIATES adba NORTHSTAR EQUITIES,
Respondent.

CASE NO. TAC 78-92
AAC 1-92
RULING AND ORDER
ON DEMURRER AND
PRELIMINARY MOTIONS

The above-entitled controversy came on for hearing before the Labor Commissioner by JACK L. HESSON, Attorney for the Division of Labor Standards Enforcement, serving as Special Hearing Officer, on the Respondent's Demurrer and Preliminary motions only, on September 9, 1994. The Petitioner was represented by her attorneys, Harvey R. Friedman and Bonnie Eskenazi of GREENBERG, GLUSKER & FIELDS and the Respondent was represented by Scott E. Schutzman of PERONA, LANGER & BECK.

Two Petitions, a Petition To Determine Controversy (TAC 78-92) under Labor Code § 1700.44 and a Petition To Determine Controversy (AAC 1-92) under Labor Code § 1543, were filed on December 2, 1992. Answers were filed February 8, 1993 and the Respondent filed a Demurrer to the petition in TAC 78-92 on that same date. Petitioner has also filed a Motion For An Order Making Conclusive Findings and a Request For Judicial Notice. The Respondent filed a Motion In Limine to limit the voiding of fees.

1 The Hearing Officer having considered all written pleadings (including those
2 filed in the Superior Court) and oral argument makes the following findings and orders:

3 The Demurrer filed in TAC 78-92 is **sustained**. The Division of Labor
4 Standards Enforcement is a statutory agency and has jurisdiction only when granted by
5 statute, therefore, though the elements of equitable estoppel are present, the Hearing
6 Officer is without jurisdiction to determine disputes with respect to any violation which
7 occurred more than one year prior to commencement of this action. Since this action
8 was filed on December 2, 1992 and the Petitioner sought to terminate the agreement
9 between the parties as early as August 29, 1990 (effective December 31, 1990), any
10 alleged violation of the Talent Agencies Act would have occurred more than one year
11 prior to the filing of the petition and DLSE is without jurisdiction pursuant to Labor Code
12 § 1700.44(c).

13 Labor Code § 1543 which governs ACC 1-92 does not contain the one year
14 limitation contained in § 1700.44(c). At this point, the Hearing Officer does not accept
15 the argument of the Petitioner that all acts alleged are covered under the Athlete Agents
16 Act or the argument of the Respondent that as a retired athlete the Act should not apply
17 at all but finds that a further hearing is required to determine if any fees were collected
18 which are covered by Labor Code § 1500-1547 and if such fees have to be returned to
19 the Petitioner.

20 Attorneys for the Petitioner and the Respondent are to consult their clients
21 about the dates which they are available for a hearing and are to contact the Hearing
22 Officer with proposed dates.

23 DATED: October 6, 1994

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26 JACK L. HESSON
Special Hearing Officer

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1 **DECLARATION OF SERVICE BY MAIL**

Case No. TAC 78-92
File No. VN1137

2
3 I, the undersigned, declare: my business address is 6150 Van Nuys Blvd.,
4 Suite 200, Van Nuys, California 91401.

5 I am over the age of eighteen years, not a party of the above-entitled
6 action, and at the time of the mailing, was employed or resided in the County where said
7 mailing occurred.

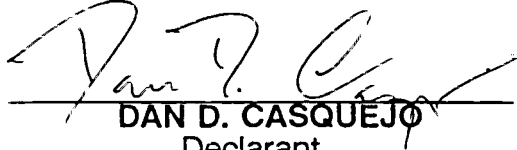
8 On **October 6, 1994**, I served a copy of the **RULING AND ORDER ON**
9 **DEMURRER AND PRELIMINARY MOTIONS** of CASE NO. TAC 78-92, FLORENCE
10 GRIFFITH JOYNER v. GORDON BASKIN, by depositing a copy thereof, enclosed in
11 separate, sealed envelope, with the postage thereon fully prepaid, in the United States
12 mail at Van Nuys, County of Los Angeles, California, each of which envelopes was
13 addressed respectively as follows:

14 GREENBERG, GLUSKER,
15 FIELDS, et al.
16 1900 Avenue of the Stars
Suite 2000
Los Angeles, CA 90067

PERONA, LANGER & BECK
300 San Antonio Drive
P.O. Box 7948
Long Beach, CA 90807-0948

17 Executed on **October 6, 1994**, at 6150 Van Nuys Blvd., Suite 200, Van
18 Nuys, California 91401.

19 I declare under penalty of perjury that the foregoing is true and correct.

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21 
22 **DAN D. CASQUEJO**
Declarant
23 (C.C.P. §§1012, 1013 et seq., 2015.5)
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