

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

10	MARI SMITH PRESENTS, INC.,)	No. TAC 4-96
)	
11	Petitioner,)	
)	
12	vs.)	DISMISSAL OF PETITION
)	TO DETERMINE CONTROVERSY
13	JESSICA LEE dba THE JEWEL BOX,)	FOR LACK OF JURISDICTION
)	
14	Respondent.)	
)	


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16 The above-captioned petition was filed on March 27, 1996 by
17 Mari Smith Presents, Inc. Model & Talent Agency (hereinafter
18 "MSP"), and alleges that on or about August 22, 1995, MSP and
19 Jessica Lee dba The Jewel Box (hereinafter "respondent") entered
20 into a written contract under which respondent agreed to pay MSP a
21 total of \$720 for the modeling services of Ashley Austin, a model
22 represented by MSP, during the period of August 28, 29, and 30,
23 1995 at the Las Vegas Fashion Accessories Show; that Austin
24 performed the contracted for services; and that respondent, after
25 sending MSP a check for the agreed-upon amount, placed a stop
26 payment order on the check, and to date, has paid no part of the
27 amount owed pursuant to the parties' agreement. By this petition,
28 MSP requests that the Labor Commissioner issue a determination

1 ordering respondent to pay the amount specified in the contract,
2 plus interest.

3 Although MSP seems to have stated a prima facie breach of
4 contract case against the respondent, there is no jurisdictional
5 basis upon which the Labor Commissioner may hear or determine this
6 case. The Talent Agencies Act (Labor Code sections 1700, et seq.)
7 governs the relationship between talent agents and the artists
8 they represent. Under Labor Code §1700.44, the Labor Commissioner
9 has jurisdiction to hear and determine disputes arising under the
10 Talent Agencies Act - - that is, disputes between artists and
11 their agents. Indeed, the Labor Commissioner is vested with
12 initial and exclusive jurisdiction to hear such disputes, in other
13 words, an artist and talent agent must take their dispute to the
14 Labor Commissioner for resolution. But here, the petition
15 concerns a dispute between a talent agency and a business that
16 hired the services of an artist represented by the agency. This
17 is not a dispute that arises under the Talent Agencies Act, and
18 there is nothing in the Talent Agencies Act that would permit the
19 Labor Commissioner to exercise jurisdiction over the purchaser of
20 an artist's services.

21 Because this dispute cannot be heard by the Labor
22 Commissioner, this petition must be dismissed. MSP may seek
23 relief against respondent by filing a court action for breach of
24 contract damages. This matter properly belongs before a court and
25 not the Labor Commissioner.

26 DATED: 8/16/96

27 
28 MILES E. LOCKER
Attorney for the Labor Commissioner

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

CERTIFICATION OF SERVICE BY MAIL
(C.C.P. §1013a)

(MARI SMITH PRESENTS, INC. v. JESSICA LEE dba THE JEWEL BOX)
(TAC 4-96)

I, MARY ANN E. GALAPON, do hereby certify that I am employed in the county of San Francisco, over 18 years of age, not a party to the within action, and that I am employed at and my business address is 45 Fremont St., Suite 3220, San Francisco, CA 94105.

On August 16, 1996, I served the following document:

DISMISSAL OF PETITION TO DETERMINE CONTROVERSY

FOR LACK OF JURISDICTION

by placing a true copy thereof in envelope addressed as follows:

MARI SMITH
MARI SMITH PRESENTS, INC.
101 State Place, Suite D
Escondido, CA 92029

JESSICA LEE
THE JEWEL BOX
2030 Union Street
San Francisco, CA 94123

and then sealing the envelope with postage thereon fully prepaid, depositing it in the United States mail in the city and county of San Francisco by ordinary first class mail.

I certify under penalty of perjury that the foregoing is true and correct. Executed on August 16, 1996, at San Francisco, California.



MARY ANN E. GALAPON