

1 STATE OF CALIFORNIA
2 DEPARTMENT OF INDUSTRIAL RELATIONS
3 DIVISION OF LABOR STANDARDS ENFORCEMENT
4 William A. Reich, Esq. (SBN 51397)
5 1901 N. Rice Avenue, Suite 200
6 Oxnard, California 93030
7 Telephone No. (805) 973-1244
8 Facsimile No. (805) 973-1251

9 Special Hearing Officer for the Labor Commissioner

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BEFORE THE LABOR COMMISSIONER
OF THE STATE OF CALIFORNIA

RUSSELL G. CLARK,

Petitioner,

vs.

THE PINKERTON MODEL AND TALENT
COMPANY, LLC aka PINKERTON MODEL
AND TALENT CO., LLC,

Respondent.

CASE NO.: TAC-31732

DETERMINATION OF
CONTROVERSY

The above-captioned matter, a petition to determine controversy under Labor Code §1700.44, came on regularly for hearing on January 7, 2015 in Los Angeles, California, before the undersigned attorney for the Labor Commissioner assigned to hear this case. Petitioner RUSSELL G. CLARK (hereinafter "Petitioner") appeared personally. Respondent THE PINKERTON MODEL AND TALENT COMPANY, LLC aka PINKERTON MODEL AND TALENT CO., LLC (hereinafter "Respondent") appeared by and through its authorized agent and representative LYNN VENTURELLA.

Based on the facts stipulated to at the hearing and on the other papers on file in this matter, the Labor Commissioner hereby adopts the following decision.

1 The petitioner acknowledged and stipulated to these facts.

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3 **LEGAL ANALYSIS**
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5 1. Respondent operated as a licensed talent agency.

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7 2. Petitioner was an artist who was represented by respondent.

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9 3. This case is within the jurisdiction of the Labor Commissioner under Labor
10 Code section 1700.44, subdivision (a).

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12 4. Under the arrangement entered into at the time respondent became
13 petitioner's talent agent, respondent agreed to accept payments on behalf of petitioner for
14 the services he rendered and to promptly remit to petitioner his share of those payments,
15 after deducting respondent's commission. This was also respondent's statutory obligation
16 under Labor Code section 1700.25, subdivision (a).

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18 5. It is conceded and undisputed that in February, 2012, respondent became
19 indebted to petitioner in the amount of \$5,400.00 for monies received by respondent in
20 payment for petitioner's services. This amount of \$5,400.00 representing petitioner's
21 share of the payments should have been remitted to petitioner forthwith.

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23 6. No part of the \$5,400.00 was ever paid to petitioner, and the entire sum is
24 due, owing, and unpaid.

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26 7. Labor Code section 1700.25, subdivision (e) provides that where there is a
27 willful failure on the part of a talent agent to pay funds to an artist within 30 days of
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1 receipt, as mandated by subdivision (a) of section 1700.25, the Labor Commissioner may
2 award the artist interest on the wrongfully withheld funds. Here, there is no question that
3 respondent wrongfully withheld monies belonging to petitioner. This plainly constituted
4 a willful violation of section 1700.25, subdivision (a). Accordingly, petitioner is entitled
5 to interest on the withheld funds.

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7 8. The total accumulated interest now due is \$1,395.00

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9 **ORDER**

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

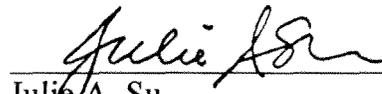
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13 Respondents THE PINKERTON MODEL AND TALENT COMPANY, LLC aka
14 PINKERTON MODEL AND TALENT CO., LLC pay to petitioner RUSSELL G.
15 CLARK the sum of \$5,400.00, plus interest in the amount of \$1,395.00, for a total of
16 \$6,795.00.

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18 Dated: 5/4/15

19 
20 William A. Reich
Special Hearing Officer
for the Labor Commissioner

21 Adopted:

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24 Dated: 5/4/2015

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26 Julie A. Su
27 State Labor Commissioner
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