

LAWS RELATING TO TALENT AGENCIES

**Excerpts from the
California Labor Code**

and

California Code of Regulations, Title 8



**Department of Industrial Relations (DIR)
Division of Labor Standards Enforcement (DLSE)
P.O. Box 420603
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LABOR CODE SECTIONS 1700 THROUGH 1700.47

Article 1: Scope and Definitions

§ 1700. "Person."

As used in this chapter, "person" means any individual, company, society, firm, partnership, association, corporation, limited liability company, manager, or their agents or employees.

§ 1700.1. "Theatrical engagement"; "Motion picture engagement"; "Emergency engagement."

As used in this chapter:

(a) "Theatrical engagement" means any engagement or employment of a person as an actor, performer, or entertainer in a circus, vaudeville, theatrical, or other entertainment, exhibition, or performance.

(b) "Motion picture engagement" means any engagement or employment of a person as an actor, actress, director, scenario, or continuity writer, camera man, or in any capacity concerned with the making of motion pictures.

(c) "Emergency engagement" means an engagement which has to be performed within 24 hours from the time when the contract for such engagement is made.

§ 1700.2. "Fee"; "Registration fee"

(a) As used in this chapter, "fee" means any of the following:

(1) Any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by any person conducting the business of a talent agency under this chapter.

(2) Any money received by any person in excess of that which has been paid out by him or her for transportation, transfer of baggage, or board and lodging for any applicant for employment.

(3) The difference between the amount of money received by any person who furnished employees, performers, or entertainers for circus, vaudeville, theatrical, or other entertainments, exhibitions, or performances, and the amount paid by him or her to the employee, performer, or entertainer.

(b) As used in this chapter, "registration fee" means any charge made, or attempted to be made, to an artist for any of the following purposes:

(1) Registering or listing an applicant for employment in the entertainment industry.

(2) Letter writing.

(3) Photographs, film strips, video tapes, or other reproductions of the applicant.

(4) Costumes for the applicant.

(5) Any activity of a like nature.

§ 1700.3. "License"; "Licensee"

As used in this chapter:

(a) "License" means a license issued by the Labor Commissioner to carry on the business of a talent agency under this chapter.

(b) "Licensee" means a talent agency which holds a valid, unrevoked, and unforfeited license under this chapter.

§ 1700.4. "Talent agency"; "Artists"

(a) "Talent agency" means 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, except that the activities of procuring, offering, or promising to procure recording contracts for an artist or artists shall not of itself subject a person or corporation to regulation and licensing under this chapter. Talent agencies may, in addition, counsel or direct artists in the development of their professional careers.

(b) "Artists" means actors 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.

Article 2: Licenses

§ 1700.5. Necessity and posting of license

No person shall engage in or carry on the occupation of a talent agency without first procuring a license therefore from the Labor Commissioner. The license shall be posted in a conspicuous place in the office of the licensee. The license number shall be referred to in any advertisement for the purpose of the solicitation of talent for the talent agency.

Licenses issued for talent agencies prior to the effective date of this chapter shall not be invalidated thereby, but renewals of those licenses shall be obtained in the manner prescribed by this chapter.

§ 1700.6. Application for license; Contents; Accompanying affidavits and fingerprints

A written application for a license shall be made to the Labor Commissioner in the form prescribed by him or her and shall state:

(a) The name and address of the applicant.

(b) The street and number of the building or place where the business of the talent agency is to be conducted.

(c) The business or occupation engaged in by the applicant for at least two years immediately preceding the date of application.

(d) If the applicant is other than a corporation, the names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the operation of the talent agency in question, together with the amount of their respective interests. If the applicant is a corporation, the corporate name, the names, residential addresses, and telephone numbers of all officers of the corporation, the names of all persons exercising managing responsibility in the applicant or licensee's office, and the names and addresses of all persons having a financial interest of 10 percent or more in the business and the percentage of financial interest owned by those persons.

The application shall be accompanied by two sets of fingerprints of the applicant and affidavits of at least two reputable residents of the city or county in which the business of the talent agency is to be conducted who have known, or been associated with, the applicant for two years, that the applicant is a person of good moral character or, in the case of a corporation, has a reputation for fair dealing.

§ 1700.7. Investigation of license applicant's character and proposed place of business

Upon receipt of an application for a license the Labor Commissioner may cause an investigation to be made as to the character and responsibility of the applicant and of the premises designated in such application as the place in which it is proposed to conduct the business of the talent agency.

§ 1700.8. Denial of license; Requirement of notice and hearing; Statutory provisions governing proceeding

The commissioner upon proper notice and hearing may refuse to grant a license. The proceedings shall be conducted in accordance with Chapter 5 (commencing at Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the commissioner shall have all the power granted therein.

§ 1700.9. Where and to whom license may not be granted

No license shall be granted to conduct the business of a talent agency:

(a) In a place that would endanger the health, safety, or welfare of the artist.

(b) To a person whose license has been revoked within three years from the date of application.

§ 1700.10. Duration of license; Renewal

The license when first issued shall run to the next birthday of the applicant, and each license shall then be renewed within the 30 days preceding the licensee's birthday and shall run from birthday to birthday. In case the applicant is a partnership, such license shall be renewed within the 30 days preceding the birthday of the oldest partner. If the applicant is a corporation, such license shall be renewed within the 30 days preceding the anniversary of the date the corporation was lawfully formed. Renewal shall require the filing of an application for renewal, a renewal bond, and the payment of the annual license fee, but the Labor Commissioner may demand that a new application or new bond be submitted.

If the applicant or licensee desires, in addition, a branch office license, he shall file an application in accordance with the provisions of this section as heretofore set forth.

§ 1700.11. Information required in applications for renewal

All applications for renewal shall state the names and addresses of all persons, except bona fide employees on stated salaries, financially interested either as partners, associates or profit sharers, in the operation of the business of the talent agency.

§ 1700.12. Fees; Filing fee for application; Fees for license and branch office when license is issued or renewed

A filing fee of twenty-five dollars (\$25) shall be paid to the Labor Commissioner at the time the application for issuance of a talent agency license is filed.

In addition to the filing fee required for application for issuance of a talent agency license, every talent agency shall pay to the Labor Commissioner annually at the time a license is issued or renewed:

- (a) A license fee of two hundred twenty-five dollars (\$225).
- (b) Fifty dollars (\$50) for each branch office maintained by the talent agency in this state.

§ 1700.13. Filing fee on application to transfer or assign license; Consent required for change of location

A filing fee of twenty-five dollars (\$25) shall be paid to the Labor Commissioner at the time application for consent to the transfer or assignment of a talent agency license is made but no license fee shall be required upon the assignment or transfer of a license.

The location of a talent agency shall not be changed without the written consent of the Labor Commissioner.

§ 1700.14. Temporary or provisional license; Duration

Whenever an application for a license or renewal is made, and application processing pursuant to this chapter has not been completed, the Labor Commissioner may, at his or her discretion, issue a temporary or provisional license valid for a period not exceeding 90 days, and subject, where appropriate, to the automatic and summary revocation by the Labor Commissioner. Otherwise, the conditions for issuance or renewal shall meet the requirements of Section 1700.6.

§ 1700.15. Bond required of licensee

A talent agency shall also deposit with the Labor Commissioner, prior to the issuance or renewal of a license, a surety bond in the penal sum of fifty thousand dollars (\$50,000).

§ 1700.16. Obligee and condition

Such surety bonds shall be payable to the people of the State of California, and shall be conditioned that the person applying for the license will comply with this chapter and will pay all sums due any individual or group of individuals when such person or his representative or agent has received such sums, and will pay all damages occasioned to any person by reason of misstatement, misrepresentation,

fraud, deceit, or any unlawful acts or omissions of the licensed talent agency, or its agents or employees, while acting within the scope of their employment.

§ 1700.18. Disposition of moneys collected for licenses and violations

All moneys collected for licenses and all fines collected for violations of the provisions of this chapter shall be paid into the State Treasury and credited to the General Fund.

§ 1700.19. Contents of license

Each license shall contain all of the following:

- (a) The name of the licensee.
- (b) A designation of the city, street, and number of the premises in which the licensee is authorized to carry on the business of a talent agency.
- (c) The number and date of issuance of the license.

§ 1700.20. Restriction of license's protection to person and place for which issued; Consent prerequisite to transfer

No license shall protect any other than the person to whom it is issued nor any places other than those designated in the license. No license shall be transferred or assigned to any person unless written consent is obtained from the Labor Commissioner.

§ 1700.20a. Estate certificate of convenience to conduct business of talent agency

The Labor Commissioner may issue to a person eligible therefor a certificate of convenience to conduct the business of a talent agency where the person licensed to conduct such talent agency business has died or has had a conservator of the estate appointed by a court of competent jurisdiction. Such a certificate of convenience may be denominated an estate certificate of convenience.

§ 1700.20b. Persons to whom certificate may be issued; Duration of certificate

To be eligible for a certificate of convenience, a person shall be either:

- (a) The executor or administrator of the estate of a deceased person licensed to conduct the business of a talent agency.
- (b) If no executor or administrator has been appointed, the surviving spouse or heir otherwise entitled to conduct the business of such deceased licensee.
- (c) The conservator of the estate of a person licensed to conduct the business of a talent agency.

Such estate certificate of convenience shall continue in force for a period of not to exceed 90 days, and shall be renewable for such period as the Labor Commissioner may deem appropriate, pending the disposal of the talent agency license or the procurement of a new license under the provisions of this chapter.

§ 1700.21. Revocation or suspension of license; Grounds

The Labor Commissioner may revoke or suspend any license when it is shown that any of the following occur:

- (a) The licensee or his or her agent has violated or failed to comply with any of the provisions of this chapter.
- (b) The licensee has ceased to be of good moral character.
- (c) The conditions under which the license was issued have changed or no longer exist.
- (d) The licensee has made any material misrepresentation or false statement in his or her application for a license.

§ 1700.22. Requirement of opportunity to be heard; Statutory provisions governing proceeding

Before revoking or suspending any license, the Labor Commissioner shall afford the holder of such license an opportunity to be heard in person or by counsel. The proceedings shall be conducted in accordance with Chapter 5 (commencing at Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

Article 3: Operation and Management

§ 1700.23. Forms of contracts for services of talent agency; Approval; Prerequisites

Every talent agency shall submit to the Labor Commissioner a form or forms of contract to be utilized by such talent agency in entering into written contracts with artists for the employment of the services of such talent agency by such artists, and secure the approval of the Labor Commissioner thereof. Such approval shall not be withheld as to any proposed form of contract unless such proposed form of contract is unfair, unjust and oppressive to the artist. Each such form of contract, except under the conditions specified in Section 1700.45, shall contain an agreement by the talent agency to refer any controversy between the artist and the talent agency relating to the terms of the contract to the Labor Commissioner for adjustment. There shall be printed on the face of the contract in prominent type the following: "This talent agency is licensed by the Labor Commissioner of the State of California."

§ 1700.24. Fee schedules of talent agency; Filing; Posting; Changes

Every talent agency shall file with the Labor Commissioner a schedule of fees to be charged and collected in the conduct of that occupation, and shall also keep a copy of the schedule posted in a conspicuous place in the office of the talent agency. Changes in the schedule may be made from time to time, but no fee or change of fee shall become effective until seven days after the date of filing thereof with the Labor Commissioner and until posted for not less than seven days in a conspicuous place in the office of the talent agency.

§ 1700.25. Trust fund accounts; Disbursement of funds; Recordkeeping requirements

(a) A licensee who receives any payment of funds on behalf of an artist shall immediately deposit that amount in a trust fund account maintained by him or her in a bank or other recognized depository. The funds, less the licensee's commission, shall be disbursed to the artist within 30 days after receipt. However, notwithstanding the preceding sentence, the licensee may retain the funds beyond 30 days of receipt in either of the following circumstances:

(1) To the extent necessary to offset an obligation of the artist to the talent agency that is then due and owing.

(2) When the funds are the subject of a controversy pending before the Labor Commissioner under Section 1700.44 concerning a fee alleged to be owed by the artist to the licensee.

(b) A separate record shall be maintained of all funds received on behalf of an artist and the record shall further indicate the disposition of the funds.

(c) If disputed by the artist and the dispute is referred to the Labor Commissioner, the failure of a licensee to disburse funds to an artist within 30 days of receipt shall constitute a "controversy" within the meaning of Section 1700.44.

(d) Any funds specified in subdivision (a) that are the subject of a controversy pending before the Labor Commissioner under Section 1700.44 shall be retained in the trust fund account specified in subdivision (a) and shall not be used by the licensee for any purpose until the controversy is determined by the Labor Commissioner or settled by the parties.

(e) If the Labor Commissioner finds, in proceedings under Section 1700.44, that the licensee's failure to disburse funds to an artist within the time required by subdivision (a) was a willful violation, the Labor Commissioner may, in addition to other relief under Section 1700.44, order the following:

(1) Award reasonable attorney's fees to the prevailing artist.

(2) Award interest to the prevailing artist on the funds wrongfully withheld at the rate of 10 percent per annum during the period of the violation.

(f) Nothing in subdivision (c), (d), or (e) shall be deemed to supersede Section 1700.45 or to affect the enforceability of a contractual arbitration provision meeting the criteria of Section 1700.45.

§ 1700.26. Records to be maintained by talent agency; Requisite information; Prohibition against false entry

Every talent agency shall keep records in a form approved by the Labor Commissioner, in which shall be entered all of the following:

- (1) The name and address of each artist employing the talent agency.
- (2) The amount of fee received from the artist.
- (3) The employments secured by the artist during the term of the contract between the artist and the talent agency, and the amount of compensation received by the artists pursuant thereto.
- (4) Any other information which the Labor Commissioner requires.

No talent agency, its agent or employees, shall make any false entry in any records.

§ 1700.27. Inspection; Copies and reports

All books, records, and other papers kept pursuant to this chapter by any talent agency shall be open at all reasonable hours to the inspection of the Labor Commissioner and his agents. Every talent agency shall furnish to the Labor Commissioner upon request a true copy of such books, records, and papers or any portion thereof, and shall make such reports as the Labor Commissioner prescribes.

§ 1700.28. Posting copy of statutes

Every talent agency shall post in a conspicuous place in the office of such talent agency a printed copy of this chapter and of such other statutes as may be specified by the Labor Commissioner. Such copies shall also contain the name and address of the officer charged with the enforcement of this chapter. The Labor Commissioner shall furnish to talent agencies printed copies of any statute required to be posted under the provisions of this section.

§ 1700.29. Rules and regulations

The Labor Commissioner may, in accordance with the provisions of Chapter 4 (commencing at Section 11370), Part 1, Division 3, Title 2 of the Government Code, adopt, amend, and repeal such rules and regulations as are reasonably necessary for the purpose of enforcing and administering this chapter and as are not inconsistent with this chapter.

§ 1700.30. Sale or transfer of interest in agency without official consent

No talent agency shall sell, transfer, or give away to any person other than a director, officer, manager, employee, or shareholder of the talent agency any interest in or the right to participate in the profits of the talent agency without the written consent of the Labor Commissioner.

§ 1700.31. Prohibition against issuing contract or filling order for illegal employment

No talent agency shall knowingly issue a contract for employment containing any term or condition which, if complied with, would be in violation of law, or attempt to fill an order for help to be employed in violation of law.

§ 1700.32. Prohibition against false or misleading information; Advertisements

No talent agency shall publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisement. All advertisements of a talent agency by means of cards, circulars, or signs, and in newspapers and other publications, and all letterheads, receipts, and blanks shall be printed and contain the licensed name and address of the talent agency and the words "talent agency." No talent agency shall give any false information or make any false promises or representations

concerning an engagement or employment to any applicant who applies for an engagement or employment.

§ 1700.33. Sending artist to unsafe place; Duty of reasonable inquiry

No talent agency shall send or cause to be sent, any artist to any place where the health, safety, or welfare of the artist could be adversely affected, the character of which place the talent agency could have ascertained upon reasonable inquiry.

§ 1700.34. Prohibition against sending minor to place where intoxicating liquor sold or consumed

No talent agency shall send any minor to any saloon or place where intoxicating liquors are sold to be consumed on the premises.

§ 1700.35. Prohibition against permitting persons of bad character at place of business

No talent agency shall knowingly permit any persons of bad character, prostitutes, gamblers, intoxicated persons, or procurers to frequent, or be employed in, the place of business of the talent agency.

§ 1700.36. Prohibition against accepting application or placing minor in unlawful employment

No talent agency shall accept any application for employment made by or on behalf of any minor, as defined by subdivision (c) of Section 1286, or shall place or assist in placing any such minor in any employment whatever in violation of Part 4 (commencing with Section 1171).

§ 1700.37. Contract between minor and talent agency; Absence of right to disaffirm approved contract; Approval by Labor Commissioner; Proceeding for judicial approval

A minor cannot disaffirm a contract, otherwise valid, entered into during minority, either during the actual minority of the minor entering into such contract or at any time thereafter, with a duly licensed talent agency as defined in Section 1700.4 to secure him engagements to render artistic or creative services in motion pictures, television, the production of phonograph records, the legitimate or living stage, or otherwise in the entertainment field including, but without being limited to, services as an actor, actress, dancer, musician, comedian, singer, or other performer or entertainer, or as a writer, director, producer, production executive, choreographer, composer, conductor or designer, the blank form of which has been approved by the Labor Commissioner pursuant to Section 1700.23, where such contract has been approved by the superior court of the county where such minor resides or is employed.

Such approval may be given by the superior court on the petition of either party to the contract after such reasonable notice to the other party thereto as may be fixed by said court, with opportunity to such other party to appear and be heard.

§ 1700.38. Requirement that talent agency notify artists of labor trouble in place of employment

No talent agency shall knowingly secure employment for an artist in any place where a strike, lockout, or other labor trouble exists, without notifying the artist of such conditions.

§ 1700.39. Division of fees.

No talent agency shall divide fees with an employer, an agent or other employee of an employer.

§ 1700.40. Registration fees; Referral to entity in which agency has financial interest; Acceptance of referral fee

(a) No talent agency shall collect a registration fee. In the event that a talent agency shall collect from an artist a fee or expenses for obtaining employment for the artist, and the artist shall fail to procure the employment, or the artist shall fail to be paid for the employment, the talent agency shall, upon demand

therefor, repay to the artist the fee and expenses so collected. Unless repayment thereof is made within 48 hours after demand therefor, the talent agency shall pay to the artist an additional sum equal to the amount of the fee.

(b) No talent agency may refer an artist to any person, firm, or corporation in which the talent agency has a direct or indirect financial interest for other services to be rendered to the artist, including, but not limited to, photography, audition tapes, demonstration reels or similar materials, business management, personal management, coaching, dramatic school, casting or talent brochures, agency-client directories, or other printing.

(c) No talent agency may accept any referral fee or similar compensation from any person, association, or corporation providing services of any type expressly set forth in subdivision (b) to an artist under contract with the talent agency.

§ 1700.41. Reimbursement of artist for expenses incurred in going outside city in unsuccessful effort to obtain employment

In cases where an artist is sent by a talent agency beyond the limits of the city in which the office of such talent agency is located upon the representation of such talent agency that employment of a particular type will there be available for the artist and the artist does not find such employment available, such talent agency shall reimburse the artist for any actual expenses incurred in going to and returning from the place where the artist has been so sent unless the artist has been otherwise so reimbursed.

§ 1700.42 (repealed)

§ 1700.43 (repealed)

§ 1700.44. Reference of disputes to Labor Commissioner; Statute of limitations; Unlicensed persons

(a) In cases of controversy arising under this chapter, the parties involved shall refer the matters in dispute to the Labor Commissioner, who shall hear and determine the same, subject to an appeal within 10 days after determination, to the superior court where the same shall be heard de novo. To stay any award for money, the party aggrieved shall execute a bond approved by the superior court in a sum not exceeding twice the amount of the judgment. In all other cases the bond shall be in a sum of not less than one thousand dollars (\$1,000) and approved by the superior court.

The Labor Commissioner may certify without a hearing that there is no controversy within the meaning of this section if he or she has by investigation established that there is no dispute as to the amount of the fee due. Service of the certification shall be made upon all parties concerned by registered or certified mail with return receipt requested and the certification shall become conclusive 10 days after the date of mailing if no objection has been filed with the Labor Commissioner during that period.

(b) Notwithstanding any other provision of law to the contrary, failure of any person to obtain a license from the Labor Commissioner pursuant to this chapter shall not be considered a criminal act under any law of this state.

(c) No action or proceeding shall be brought pursuant to this chapter with respect to any violation which is alleged to have occurred more than one year prior to commencement of the action or proceeding.

(d) It is not unlawful for a person or corporation which is not licensed pursuant to this chapter to act in conjunction with, and at the request of, a licensed talent agency in the negotiation of an employment contract.

§ 1700.45. Contract provision for arbitration; Provisions prerequisite to validity

Notwithstanding Section 1700.44, a provision in a contract providing for the decision by arbitration of any controversy under the contract or as to its existence, validity, construction, performance, nonperformance, breach, operation, continuance, or termination, shall be valid:

(a) If the provision is contained in a contract between a talent agency and a person for whom the talent agency under the contract undertakes to endeavor to secure employment, or

(b) If the provision is inserted in the contract pursuant to any rule, regulation, or contract of a bona fide labor union regulating the relations of its members to a talent agency, and

(c) If the contract provides for reasonable notice to the Labor Commissioner of the time and place of all arbitration hearings, and

(d) If the contract provides that the Labor Commissioner or his or her authorized representative has the right to attend all arbitration hearings.

Except as otherwise provided in this section, any arbitration shall be governed by the provisions of Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.

If there is an arbitration provision in a contract, the contract need not provide that the talent agency agrees to refer any controversy between the applicant and the talent agency regarding the terms of the contract to the Labor Commissioner for adjustment, and Section 1700.44 shall not apply to controversies pertaining to the contract.

A provision in a contract providing for the decision by arbitration of any controversy arising under this chapter which does not meet the requirements of this section is not made valid by Section 1281 of the Code of Civil Procedure.

§ 1700.46 (repealed)

§ 1700.47. Equal Opportunity

It shall be unlawful for any licensee to refuse to represent any artist on account of that artist's race, color, creed, sex, national origin, religion, or handicap.

**California Code of Regulations, Title 8
Chapter 6. Division of Labor Standards Enforcement
Subchapter 3. Employment Agencies**

Article 1. General Rules and Regulations for Artists' Managers

§12000. Application.

Application for the original license shall be made upon the form prescribed by the Labor Commissioner and shall contain the following information:

- (a) The proposed business name of the talent agency, which may not be identical or similar to that of another licensed talent agency.
- (b) The proposed places of business and the main office address of the talent agency in California, which address shall also be its mailing address for purposes of notice required by these regulations and provisions of the Labor Code or any other applicable statute.
- (c) If applicant is not a corporation, names and addresses of all persons who are financially interested either as partners, associates, profit sharers, or employees or other persons receiving as compensation a share of the net profits from the operation of the talent agency; said application shall also show the share of said net profit each person is to receive.
- (d) If the applicant is a corporation, the following information must be shown: name, address and title of the persons acting as executive officers of the corporation who have managing responsibility in California.
- (e) If applicant is not a corporation, questions must be answered as to each person or profit sharer listed in the application as having a financial interest in or the right to share in the net profits of the talent agency (1) regarding his business or occupation for the preceding five (5) years; (2) whether or not such person or profit sharer has ever been associated in any capacity in the operation or business of a talent agency; (3) whether or not such person has had a talent agency license or any license or permit issued by any agency of the State of California revoked, suspended, or refused, or any disciplinary action taken with respect to any such license or permit; (4) whether or not such person has been convicted of a crime except for minor traffic violations.
- (f) In the case of an application by a corporation, the foregoing information must be submitted by the executive officers acting in a managerial capacity for or on behalf of the corporation within the State of California.
- (g) Application, if by an individual, must be signed, giving full name; if by partnership, must be signed by all partners; if by a corporation, must be signed by an officer of the corporation, affixing the seal of the corporation thereto.

§12000.1. Required Documents.

The following documents, in addition to those required by Labor Code Section 1700.6, must be filed with the application for license:

- (a) Surety bond as required by Labor Code Section 1700.15, issued by a corporate surety company authorized to write surety bonds in California, and on the form prescribed by the Labor Commissioner. The name of the talent agency and principal on the bond must correspond to the name of the talent agency and principal on the application.

(b) Contract forms in triplicate which are proposed to be used in the conduct of the business of the talent agency in accordance with the requirements of Labor Code Section 1700.23. If any of said proposed contract forms is a standard form of union contract previously approved by, and on file with the Labor Commissioner, that form need not be submitted by the applicant if it is identified on the application.

(c) Fee schedules in triplicate in the form required by Labor Code Section 1700.24, and California Code of Regulations, Title 8, Section 12003.4.

12000.2. Application and Documents in Proper Form.

If the application and/or the required documents are not in proper form or contain any provisions contrary to law when submitted and are not corrected and resubmitted in proper form within 30 days after written notice from the Labor Commissioner, the license applied for will be denied without prejudice to either the submission of a new application or the required documents in proper form.

§12000.3. Renewal Applications.

Renewal applications shall be filed with the Labor Commissioner by each licensee at least 30 days before the commencement of the new license year. If mailed, the postmark will be considered the date of filing. If the renewal application is not filed on or before the expiration date of the license as set forth in Labor Code Section 1700.10, the license expires and cannot be renewed. Such licensee, having failed to renew his, her, its license, must submit a new application and comply with the provisions of Labor Code Section 1700.12 in the same manner as a new applicant.

§12000.4. Fees for License.

The license fee, together with the filing fee as required by Labor Code Section 1700.12, shall be submitted in the form of cashier's check, certified check, or money order and must accompany the application for a license or for a renewal thereof.

§12000.5. Transfer of License.

Consent for the transfer of a license, as required by Labor Code Section 1700.20, shall be given only after the filing of a transfer application executed by the licensee and the proposed transferee in the form prescribed by the Labor Commissioner, which must be accompanied by the required filing fee, a surety bond as required in the case of a new application, together with the information required by Labor Code Section 1700.6(d) and California Code of Regulations, Title 8, Section 12000(e) regarding the proposed transferee. The proposed transferee must also submit, for approval or certification, any contract forms, or fee schedules in their proposed new form should changes in substance from previously approved or certified forms be intended.

§12000.6. Transfer of Interest in the Business or Right to Participate in Profits.

Before the issuance of written consent for the transfer of interest in the talent agency or in the right to participate in the profits as required by Labor Code Section 1700.30, notification shall be made to the Labor Commissioner in writing within 10 days of the transfer. The Labor Commissioner may require, pursuant to his or her discretion, that the person or persons to whom such interest in the business of the talent agency or right to share in the profits thereof is to be sold, transferred or given, complete the transfer application required by California Code of Regulations, Title 8, Section 12000.5 and supply the information required by Labor Code Section 1700.6(d) and California Code of Regulations, Title 8, Section 12000(e).

§12000.7. Change in Location of Main or Branch Office.

A talent agency shall notify the Labor Commissioner of a proposed change of address of its main or branch office at least 20 days before such change.

§12000.8. Transfer of Interest in the Business or Right to Participate in Profits.

Renumbering and amendment of former Section 12000.8 to Section 12000.6 filed 7-20-89; operative 8-19-89 (Register 89, No. 30). For prior history, see Register 84, No. 11.

§12000.9. Change in Location of Main or Branch Office.

Renumbering and amendment of former Section 12000.9 to Section 12000.7 filed 7-20-89; operative 8-19-89 (Register 89, No. 30). For prior history, see Register 84, No. 11.

§12001. Form of Talent Agency Contracts--General Provisions.

Any contract in writing to be entered into between a talent agency and an artist wherein the talent agency agrees to act or function as such for, or on behalf of the artist, shall contain in words or substance in addition to any other provisions set forth therein, each of the following provisions:

(a) A provision stating the term of employment of the talent agency by the artist or a blank space for the insertion of said term.

(b) A provision containing a blank space for the insertion of the compensation or rate of compensation to be paid by the artist to the talent agency which compensation shall not exceed the maximum compensation or maximum rate of compensation set forth in the schedule of fees filed with the Labor Commissioner by the talent agency. Said talent agency contract may provide for the payment of compensation after the termination thereof with respect to any employment contracts entered into or negotiated for or to any employment accepted by the artist during the term of the talent agency contract, or any extensions, options or renewals of said employment contracts or employment.

To be entitled to the payment of compensation after termination of the contract between the artist and the talent agency, the talent agency shall be obligated to serve the artist and perform obligations with respect to any employment contract or to extensions or renewals of said employment contract or to any employment requiring the services of the artist on which such compensation is based.

(c) A provision that the talent agency may advise, counsel or direct the artist in the development or advancement of his professional career.

(d) A provision that the talent agency shall, subject to the availability of the artist, use all reasonable efforts to procure employment for the artist in the field or fields of endeavor specified in the contract in which the talent agency is representing the artist.

(e) A provision that, in the event of the failure of the artist to obtain employment or a bona fide offer therefor from a responsible employer, in the field or fields of endeavor specified in the contract in which the talent agency is representing the artist, for a period of time in excess of four consecutive months, such failure shall be deemed cause for the termination of the contract by either party; provided, however, that the artist shall at all times during such period of four consecutive months be ready, willing, able and available to accept employment and to render the services required in connection therewith. Notices of intention of either party to such a contract to terminate same must be given in writing to the other party to such a contract directed to the last known address of said party. In the event the artist accepts employment prior to any written notice of termination, said right of termination is deemed waived as to all past periods of unemployment but not as to future four consecutive months of employment.

(f) A provision that in all cases of controversy between a talent agency and an artist arising under the Labor Code, or under these Rules and Regulations, relating to the terms of the contract, the parties involved therein shall refer the matters in dispute to the Labor Commissioner or one of his duly authorized agents to be determined, as provided in Section 1700.44 of the Labor Code. However, such a provision need not be inserted in contracts governed by the provisions of Section 1700.45 of the Labor Code.

§12001.1. Copy of Contract to Artist.

The talent agency shall deliver to the artist a copy of the contract required by California Code of Regulations, Title 8, Section 12001 which has been executed by the talent agency and the artist.

§12002. Oral Contracts.

A talent agency shall be entitled to recover a fee, commission or compensation under an oral contract between a talent agency and an artist as long as the particular employment for which such fee, commission or compensation is sought to be charged shall have been procured directly through the efforts or services of such talent agency and shall have been confirmed in writing within 72 hours thereafter. Said confirmation may be denied within a reasonable time by the other party. However, the fact that no written confirmation was ever sent shall not be, in and of itself, sufficient to invalidate the oral contract.

§12003. Form of Contracts Must Be Approved.

Approval of the form of contract as required by Labor Code Section 1700.23 will be indicated by an endorsement thereon by the Labor Commissioner which must be retained by the talent agency, or by a letter from the Labor Commissioner that the contract adopted by the talent agency has been endorsed by the Labor Commissioner.

§12003.1. Required Statements on Contract Forms Indicating Approval of Labor Commissioner.

After approval of the form of contract by the Labor Commissioner, the same may be legibly reproduced, which reproduction must bear thereon the following statement:

"THIS TALENT AGENCY IS LICENSED BY THE LABOR COMMISSIONER OF THE STATE OF CALIFORNIA

The form of this contract has been approved by the State Labor Commissioner on the ____ day of _____ 19____."

§12003.2. Approval of the Labor Commissioner for Reproduction of Approved Contract Forms.

No form of contract which incorporates substantial changes in the form of contract previously approved shall be reproduced again unless the same shall be submitted to the Labor Commissioner for approval and shall not be reproduced again prior to the granting of approval and written consent by the Labor Commissioner.

§12003.3. Modifications of Contract Forms Which Do Not Require Approval of the Labor Commissioner.

Modifications of contract forms previously approved by the Labor Commissioner which do not substantially change the substance and which, therefore, do not require further approval by the Labor Commissioner pursuant to California Code of Regulations, Title 8, Section 12003.2 include, but are not limited to the following:

1. A provision for the commencement of the term of the contract at some specified date in the future, which date may be fixed by the occurrence of an event or contingency.
2. The deletion of certain fields of endeavor, such as motion pictures, television, etc., from the scope of the talent agency's representation, or a designation of specific engagements.
3. A reduction in the compensation to be paid by the artist to the talent agency.
4. Any waiver by the talent agency of commission or compensation to be received from the artist.
5. A reduction in the four month termination period required by California Code of Regulations, Title 8, Section 12001(e).
6. Any provision for additional or special services, facilities or benefits to be rendered by the talent agency on behalf of the artist.
7. Any other modification which operates to the advantage of the artist.

§12003.4. Fee Schedule.

Fee schedules posted, as required by Labor Code Section 1700.24, shall be printed or lettered in a size no less than Twelve-Point Cheltenham Roman Type or its equivalent. The printing or lettering shall be in a legible style and there shall be adequate separation between the various classifications. Each fee schedule, when submitted to the Labor Commissioner, must have a clear space of at least 2 1/2 inches at the bottom to permit certification.

§12003.5. Contents--Fee Schedule.

(a) Each fee schedule shall be headed by the words, SCHEDULE OF FEES.

(b) Additionally, in each fee schedule the following paragraphs shall appear at the end of said fee schedule:

1. "If any controversy arises between the parties, including one as to liability for the payment of fees, the parties involved shall refer the matter in dispute to the Labor Commissioner for hearing and determination as provided in Labor Code Section 1700.44, unless such controversy can be handled in accordance with the provisions of Labor Code Section 1700.45."

2. "In the event that a talent agency shall collect from an artist a fee or expenses for obtaining employment for the artist, and the artist shall fail to procure such employment, or the artist shall fail to be paid for such employment, such talent agency shall, upon demand therefor, repay to the artist the fee and expenses so collected. Unless repayment thereof is made within forty-eight (48) hours after demand therefor, the talent agency shall pay to the artist an additional sum equal to the amount of the fee." (Section 1700.40, California Labor Code).

§12003.6. Regulations Do Not Affect Prior Contracts.

These rules and regulations shall not apply to contracts heretofore entered into between talent agencies and artists, if the same have been approved by the Labor Commissioner and said contracts do not contain any provisions contrary to law.

§12004. Termination of Contract.

Any incapacity which shall prevent a talent agency from performing the services to be rendered by such talent agency to an artist for a period of three consecutive months or the failure of the talent agency to maintain a regular office for the transaction of business in the State of California for a period of one month shall be sufficient grounds for cancellation or termination of the contract by the artist.

§12005. Revocation or Suspension of License.

The failure of any talent agency to comply with these Rules and Regulations or with any order made by the Labor Commissioner in pursuance thereof shall be cause for the suspension or revocation of the license of such talent agency pursuant to Labor Code Section 1700.21.

§12006. Amendment or Revision of Rules and Regulations.

Repealer filed 7-20-89; operative 8-19-89 (Register 89, No. 30). For prior history, see Register 84, No. 11.

Article 2. Controversies Submitted Under

§12022. Filing of Application for Hearing to Determine Controversy.

Proceedings shall be commenced by filing at the office of the Labor Commissioner, Licensing Division, P.O. Box 420603, San Francisco, CA 94142-0603, a petition to determine controversy between the artist and talent agency, which shall set forth the claim or demand of the petitioner and shall be signed by the petitioner or a person duly authorized to act for him and shall set forth:

- (a) A statement as to the nature of the controversy, including submission of such pertinent information as is within the knowledge of the petitioner.
- (b) The claim or demand of the petitioner.
- (c) A copy of any contract pertaining to the controversy.

§12022.1. Form of Petition.

The following form represents the minimum requirements for Petition to Determine Controversy.

///
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NAME:
ADDRESS:
CITY & STATE:

Telephone:

In Propria Persona

BEFORE THE LABOR COMMISSIONER
OF THE STATE OF CALIFORNIA

No.: _____

_____)
)
)
Petitioner,)
)
vs.)
)
)
Respondents.)
_____)

PETITION TO DETERMINE
CONTROVERSY
(Labor Code Section 1700.44)

Petitioner alleges as follows:

I

This petition is filed pursuant to the authority of Section 1700.44 of the Labor Code of the State of California.

II

At the time mentioned herein _____ was and is now a resident of the county of _____, State of California, and an artist (Talent Agency) as that term is defined in Section 1700.44 of the Labor Code.

III

At all times mentioned herein petitioner (respondent) acted in the capacity of a Talent Agency and was (was not) duly licensed by the laws of the State of California.

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IV

On or about _____, 20____, the parties hereto entered into a written contract. A copy of said contract is attached hereto marked Exhibit "A".

V

A controversy has arisen between petitioner and respondent under said contract in that petitioner contends, and respondent denies as follows:

WHEREFORE, petitioner seeks the following determination:

DATED: _____

SIGNED: _____
In Propria Persona

DLSE 370 (Rev.04/09)

§12023. Requirements As to Documents for Filing.

All pleadings, petitions and papers, before being filed or served, shall be printed or written on white paper of standard quality not less than 13-pound weight, 8 1/2 by 11 inches in size with numbered lines, connected at the top and paged at the bottom, and shall be written or printed upon only one side of the paper. All copies served shall be true and legible copies of the original. The office address and telephone number of the representative appearing for a party filing any petition, answer or notice, or the office or residence address and telephone number of a party appearing in his own behalf must be endorsed upon such petition, answer or notice, in the upper left hand corner of the first page.

§12024. Service of Copy of Petition on Other Party to the Controversy.

No petition to determine controversy heretofore or hereafter commenced shall be further prosecuted, and no further proceedings shall be had therein, and all petitions to determine controversies heretofore or hereafter commenced must be dismissed by the Labor Commissioner on his own motion, or on the motion of any party interested therein, whether named in the petition as party or not, unless petition be served and return thereon made within one year after the filing of said petition. But all such petitions may be prosecuted if general appearance has been made in said proceedings by the respondent within said one year in the same manner as if said petition had been served; provided that no dismissal shall be had under this section as to any respondent because of the failure to serve the petition on him during his absence from the State, or while he has secreted himself within the State to prevent the service of said petition on him.

§12024.1. Dismissal of Petition.

No petition to determine controversy heretofore or hereafter commenced shall be further prosecuted, and no further proceedings shall be had therein, and all petitions to determine controversies heretofore or hereafter commenced must be dismissed by the Labor Commissioner on his own motion, or on the motion of any party interested therein, whether named in the petition as party or not, unless petition be served and return thereon made within one year after the filing of said petition. But all such petitions may be prosecuted if general appearance has been made in said proceedings by the respondent within said one year in the same manner as if said petition had been served; provided that no dismissal shall be had under this section as to any respondent because of the failure to serve the petition on him during his absence from the State, or while he has secreted himself within the State to prevent the service of said petition on him.

§12025. Answer to Petition.

Written notice to the respondent, requiring him to answer said petition within 20 days from service thereof, shall be served upon the respondent at the time of service of said petition to determine controversy.

Within 20 days from, and after service of the petition to determine controversy, the respondent in said proceeding shall serve and file an answer thereto, setting forth the defense and any claims of said respondent. Said answer shall be signed by the respondent or a person duly authorized to act for said respondent.

12025.1. Forms for Notice to Answer.

Notice to Answer as set forth in Section 12025 above, shall be in the following form:

TO THE ABOVE NAMED _____, respondent.
YOU ARE DIRECTED to file at the office of the State Labor Commissioner, (insert address) _____, a written pleading in response to the Petition to Determine Controversy within 20 days after the service on you of this notice. You are notified that unless you so file a written responsive pleading, the petitioner may apply to the Labor Commissioner for any relief demanded in the petition.

§12026. Setting and Notice of Hearing.

In a proceeding for the determination of a controversy, either party, after service of petition and filing of the answer, or, if no answer has been filed after the 20 day period set forth in California Code of Regulations, Title 8, Section 12025, may file with the Labor Commissioner a Request for Setting of Hearing; said request for hearing shall include a certificate of service by mail on the opposing party. Thereafter, the Labor Commissioner shall give notice of the time and place of hearing to each of the parties, using first-class mail.

§12027. Right to Subpoena.

(a) Subpoena. Upon request of either party to the controversy, the Labor Commissioner may issue a subpoena for the attendance of witnesses before the Labor Commissioner at the time and place of the hearing of the controversy. Said subpoena shall be served in the manner provided for serving subpoenas in civil actions.

(b) Subpoena Duces Tecum. Upon request of either party to the controversy, accompanied by a declaration showing good cause for the production thereof and showing the relevance thereof, and upon the determination of the Labor Commissioner, he or she may issue a subpoena duces tecum requiring the production of books, documents or other things under the control of the party subpoenaed, which the party is bound to produce at the time and place of the hearing. Said subpoena duces tecum shall be served in the manner provided for serving subpoenas in civil actions.

§12028. Depositions.

On application of a party to the controversy, the Labor Commissioner may order the deposition of a witness to be taken for use as evidence, and not for discovery, if the witness cannot be compelled to attend the hearing or if such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally at the hearing, to allow the deposition to be taken. The deposition shall be taken in the manner prescribed by law for the taking of depositions in civil actions.

§12029. Proceedings to Be Had Under Oath.

All testimony adduced at the hearing of the controversy shall be under oath.

§12030. Proceedings May Be Reported.

Any proceedings held before the Labor Commissioner may be reported. The person desiring the reporting shall bear the expense thereof, and if the testimony is transcribed, a copy of this transcript shall be furnished without cost to the Labor Commissioner.

§12031. Conduct of Hearing.

The hearing may be reported or phonographically recorded. The parties to the controversy are entitled to be heard, to present evidence and to cross-examine witnesses appearing at the hearing, but the Labor Commissioner is not bound by the rules of evidence or judicial procedure.

§12032. Decision of Labor Commissioner.

The decision of the Labor Commissioner shall be in writing and shall be served upon the parties to the controversy by first-class mail. Either party to the controversy, at the commencement of the hearing, may request that findings of fact be made by the Labor Commissioner, but the making of such findings of fact shall be discretionary with the Labor Commissioner.

§12033. Custody of Papers Filed with the Labor Commissioner.

All papers on file in the office of the Labor Commissioner shall remain in his or her custody, and no paper on file therein shall be taken from the Labor Commissioner's office, unless the same is subpoenaed in an action pending before a court of competent jurisdiction; except that documents introduced by the parties into evidence may be withdrawn upon stipulation of the parties or by their respective representatives.